



**COMMUNITY DEVELOPMENT**  
1594 Esmeralda Avenue, Minden, Nevada 89423

Mimi Moss  
COMMUNITY DEVELOPMENT DIRECTOR

775-782-6201  
FAX: 775-782-6297  
website: [www.douglascountynv.gov](http://www.douglascountynv.gov)

Building Division  
Engineering Division  
Planning Division  
Code Enforcement

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**AGENDA**  
**DOUGLAS COUNTY PLANNING COMMISSION**  
**AUGUST 12, 2014**  
**\*\*\*REVISED\*\*\***

A meeting of the Douglas County Planning Commission will be held on **Tuesday, August 12, 2014** beginning at **1:00 p.m.** The meeting will be held in the Douglas County Commissioner Meeting Room of the Douglas County Administrative Building, 1616 Eighth Street, Minden, Nevada. The time of agenda items is approximate. *The Planning Commission may also be meeting for lunch on the same day, at 11:30 a.m. at Minden Food Company, 1599 Esmeralda Avenue, Minden, NV. Members of the public, press, and staff are welcome. This is a social gathering; no Planning Commission business will be discussed.*

The Planning Commission reserves the right to take items in a different order; to combine two or more agenda items for consideration; and to remove items from the agenda or delay discussion relating to an item on the agenda at any time.

It is the intent of the Planning Commission to protect the dignity of citizens who wish to comment before the Commission. It is also the members' wish to provide the citizens of Douglas County with an environment that upholds the highest professional standards. Citizens should have the ability to freely comment on items and/or projects that are brought before the Commission for action without interference.

In order to ensure that every citizen desiring to speak before the Commission has the opportunity to express his/her opinion, it is requested that the audience refrain from making comments, hand clapping or making any remarks or gestures that may interrupt, interfere or prevent the speaker from commenting on any present or future project. The Commission, through its chair, may prohibit a comment if the comment is on a topic that is not relevant to, or within the authority of the public body or if the comment is repetitious or willfully disruptive of the meeting. Written materials filed with the Clerk are part of the record and do not need to be read aloud. Citizens and applicants alike are encouraged to submit written materials well in advance of the scheduled meeting so that the Planning Commissioners will have time to review them before the public hearings begin.

Persons desiring an opportunity to address the Planning Commission who are not able to attend the meeting are requested to complete and submit a "Comment Card" to the Chair at the main podium prior to the convening of the meeting. Cards are located at the main entrance to the meeting room.

**Notice to Persons with Disabilities:** Members of the public who are disabled and require special assistance or accommodations at the meeting are requested to notify the County Clerk's Office in writing at P.O. Box 218, Minden, Nevada 89423 or by calling 782-9020 at least 20 hours in advance.

**Call to Order and Determination of Quorum.**

**Pledge of Allegiance.**

**Public Comment. (No Action Can Be Taken)**

At this time, public comment will be taken on those items and matters within the jurisdiction and control of the Planning Commission including, Presentations, Planning Matters and/or subjects not on agenda. Public comment on specific items agendized "for possible action" will be taken during consideration of that item. Public Comment is limited to 3 minutes per speaker. The Planning Commission uses timing lights in an effort to ensure that everyone gets to speak for the same amount of time. You will see a green light when you begin, and then a yellow light which indicates that you have thirty seconds left. Once the light goes red, please sit down time.

**Approval of Agenda. For possible action.**

MAILING ADDRESS: P.O. Box 218, Minden, Nevada 89423

**Disposition of the July 8, 2014 Meeting Minutes. For possible action.**

**Public Hearings.**

1. For possible action. Discussion on Development Application (DA) 14-049, for Paula Lochridge on behalf of Main Street Gardnerville Program, requesting a Special Use Permit to allow a 12 foot by 16 foot Mural on the side of an existing building owned by Hal Holder, Jr., Holder Hospitality. The subject property is located at 1432 Highway 395, Gardnerville, within the GC (General Commercial) zoning district and the Minden-Gardnerville Community Plan (APN: 1320-33-401-033). The Planning Commission may approve, approve with modifications or deny the request.

Case Planner: Lucille Rao (775) 782-6218 [lrao@co.douglas.nv.us](mailto:lrao@co.douglas.nv.us)  
Case Engineer: Barbra Resnik (775) 782-6234 [bresnik@co.douglas.nv.us](mailto:bresnik@co.douglas.nv.us)

2. For possible action. Discussion on Ordinance 2014-1418, a zoning text amendment to Douglas County Code (DCC), to prohibit medical marijuana establishment (MME) uses as defined by Nevada Revised Statutes (NRS) Chapter 453A in all Douglas County zoning districts; deleting section 20.01.120 Moratorium on Medical marijuana establishments; adding a new section 20.660.170 Medical marijuana establishment uses which prohibits the MME use in all zoning districts; adding a definition for MMEs in Appendix A Definitions; and other properly related matters. The Planning Commission may recommend adoption, modified language, or that the Ordinance not be adopted.

Case Planner: Hope Sullivan (775) 782-6200 [hsullivan@co.douglas.nv.us](mailto:hsullivan@co.douglas.nv.us)

3. For possible action. Discussion on Ordinance 2014-1419, a zoning text amendment to Douglas County Code (DCC), to amend Title 20, Appendix A to define an Indoor Gun Range, and Section 20.658.020 (Permitted, development permitted, and special use permit uses), Section 20.660.090 (Use Regulations), Chapter 20.666 (Non-Residential Specific Standards for Permitted, Development Permitted and Special Use Permit Uses), and Chapter 20.668 (Non-Residential Specific Standards) so as to allow an Indoor Gun Range subject to Special Use Permit and supplemental standards in the Private Recreation, Neighborhood Commercial, General Commercial, Tourist Commercial, Light Industrial, Service Industrial, and Public Facilities zoning districts; and other properly related matters. The Planning Commission may recommend adoption, modified language, or recommend that the Ordinance not be adopted.

Case Planner: Hope Sullivan (775) 782-6200 [hsullivan@co.douglas.nv.us](mailto:hsullivan@co.douglas.nv.us)

- ~~4. For possible action. Discussion on (PD) 04-008-7, for Ken Hendrix, Jenuane Communities The Ranch, LLC, a Modification to an existing Planned Development: (1) to increase the number of residential units for the entire planned development from 633 to 634 applying one additional dwelling unit to the multi-family development in Phase 7b, (2) approval of a residential tentative subdivision map for a 42 unit condo multi-family development with a minimum condo size of 1,499 square feet, (3) approval of two private roads, (4) a variance to improvement standards to waive the requirement for an on-site sidewalk system, (5) a variance to improvement standards to allow tandem parking for 14 units, (6) a variance to improvement standards to waive recreation vehicle storage requirements, (7) a variance to improvement standards to reduce the standard road width from 36 to 24 feet for a private road, and (8) a variance to improvement standards to reduce the width of the right-of-way from 60 feet to 32 feet. The subject property is located at Heybourne Road and Gilman Avenue in the MFR/PD (Multi-family residential, 9,000 square foot minimum parcel size) and the SFR-8000/PD (Single-family residential—8,000 square foot minimum net parcel size) zoning districts and within the Minden-Gardnerville Community Plan (APN: 1320-33-210-069). The Planning Commission may recommend approval, approval with modifications or denial of the request to the Board of Commissioners.~~

~~Case Planner: Dirk Goering (775) 782-6212 [dgoering@co.douglas.nv.us](mailto:dgoering@co.douglas.nv.us)  
Case Engineer: Barbra Resnik (775) 782-6234 [bresnik@co.douglas.nv.us](mailto:bresnik@co.douglas.nv.us)~~

**\*\* Continued to September 9, 2014 Planning Commission meeting, per applicant.**

**Adjournment.**

\*Copies of Community Development Staff Reports can be requested by calling Tami Eslick, Planning Secretary, (775) 782-6210 or in person (Monday – Thursday, 8:00 a.m. – 3:00 p.m. and Friday 8:00 a.m. – 12:00 p.m.) 1594 Esmeralda Ave., Room 221, Minden, Nevada. Community Development Staff Reports can also be found at <http://www.douglascountynev.gov>. During the public hearing, Community Development Staff Reports can be viewed in the Public Information Binder located at the entrance to the meeting room.

\*Community Development Staff Reports are available, at a minimum, 3 days prior to the meeting.

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Copies of this notice are posted at the Douglas County Administrative Building (Historic Courthouse), Douglas County Community Development (Minden Inn), Douglas County Judicial and Law Enforcement Center, Douglas County Libraries – Minden and Lake Tahoe, and the Minden Post Office. This notice will be posted on the Douglas County website – <http://www.douglascountynv.gov>. However, this Commission does not maintain the listed website and therefore timely posting of agendas on the website cannot be guaranteed.

**TIMING FOR AGENDA ITEMS IS APPROXIMATE UNLESS OTHERWISE INDICATED**

MAILING ADDRESS: P.O. Box 218, Minden, Nevada 89423

## **DRAFT**

The regular meeting of the Douglas County Planning Commission was held on Tuesday, July 8, 2014 in the Douglas County Commissioner Meeting Room of the Douglas County Administrative Building, 1616 8<sup>th</sup> Street, Minden, Nevada.

**PLANNING COMMISSION MEMBERS PRESENT:** Frank Godecke, Chairman; James Madsen, Vice Chairman; Margaret Pross; Jo Etta Brown; Kevin Servatius, Don Miner and James Beattie.

**STAFF PRESENT:** Zach Wadlé, Deputy District Attorney; Mimi Moss, Community Development Director; Hope Sullivan, Planning Manager; Dirk Goering, Associate Planner and Lorraine Diedrichsen, Clerk to the Board.

### **Call to Order and Determination of Quorum**

Chairman Godecke called the meeting to order at 1:00 p.m. and determined a quorum was present.

### **Pledge of Allegiance**

Member Servatius led the Pledge of Allegiance.

### **Public Comment**

There was no public comment.

### **Approval of Agenda. For possible action.**

No public comment.

MOTION by Miner/Brown to approve the agenda as presented; carried unanimously.

### **Disposition of the June 10, 2014 Meeting Minutes. For possible action.**

No public comment.

MOTION by Miner/Madsen to approve the minutes as presented; carried with Pross and Brown abstaining.

### **Public Hearings**

- 1. For possible action. Discussion on Development Application (DA) 14-038, a Major Variance request for Todd Whear, to reduce the side-yard setback requirement from 7 feet to 4 feet 4 inches and to reduce the rear-yard setback requirement from 20 feet to 11 feet. The variance is to allow the property owner to construct a 6-inch wide structure around the perimeter of the existing cabin to support a second-story addition. The existing cabin is located 4 feet 10 inches from the side-yard property line and 11 feet 6 inches from the rear-yard setback. The subject property is located at 613 Freel Drive in the R-067 (Residential, 067 Plan Area Statement) within the Tahoe Regional Planning**

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**Area (APN: 1318-09-812-002). The Planning Commission may approve, approve with modifications, or deny the request.**

**Case Planner: Dirk Goering, AICP (775) 782-6212 [dgoering@co.douglas.nv.us](mailto:dgoering@co.douglas.nv.us)**

**Case Engineer: Barbra Resnik (775) 782-6234 [brsesnik@co.douglas.nv.us](mailto:brsesnik@co.douglas.nv.us)**

Dirk Goering, Associate Planner, presented the vicinity map, noticing radius, Master Plan designation of the parcel, 2013 aerial of the parcel, background on the parcel, proposed development, site plan of the proposed parcel, photos of the site looking east and south, public comment received, allowable development, site plan with an outline of the setback requirements, modified condition 3, findings for a major variance, and staff's recommendation for approval with the modified condition. The applicant is required to obtain approval from TRPA but the county enforces setback standards.

Patrick Clark, Building Concepts, said the property will be used as a vacation home. The existing cabin is no longer conforming to current codes so the option of building directly on top of the existing cabin is not practical. Although not deemed historic by TRPA, the Whear's would like to save the existing cabin. To do that, a wall would be built around the existing cabin leaving portions of the original masonry and windows visible and then build up. The entire neighborhood has setback issues; most every property has a setback encroachment. Many of the properties that have been redeveloped have applied for and received variances. The majority of the houses are two stories. The current cabin is 850 square feet and they are proposing to build a 1,800 square foot structure, which is smaller than what is allowed on the lot. The proposed structure will be the least invasive to the adjacent neighbors. He provided the TRPA setback requirements and said they are very conservative and negatively impacts the smaller lots. If the variance is not granted, the applicant could tear down the existing structure and build in the center of the lot but that would be more invasive and would result in losing the charm of the original structure.

Mr. Goering summarized the concerns raised in public comment and added one piece of public comment in support of the variance was also received.

#### PUBLIC COMMENT

Roy Pike, resident of Marla Bay since 1954, is glad the original cabin will be retained since many of them have been removed. He believes in property owner rights provided the proper process is followed. He understands the position of the other neighbors but this proposal is something that Marla Bay can live with. The impact to the neighbors and the community is not that drastic.

Scott Whitten, 616 Pharris, said his view would be obstructed if a second level is added. Speaking to the required findings, he stated said this lot is similar to nine other lots within 300' of this one so the parcel is not unique; there are many other small lots that are more irregularly shaped than this rectangular lot; two out the four adjacent homes are single level; and this structure would impede his views. He believes the encroachment into the setback will be 9', which will make the house seem even more obstructive. The majority of the citizens oppose this and he urged

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the Planning Commission to preserve the neighborhood integrity and uphold the Douglas County Code. He urged denial of the request.

Scott Smith, 638 Freel Dr., is in favor of the variance. He read from a prepared statement outlining his reasons for taking this position and it is part of the record.

Linda Lisbakken, 605 Freel Dr., pointed out Mr. Smith is a realtor and Mr. Pike is a long time friend of the Whears. She stated she has submitted a written statement for the record. The Whears should have done due diligence prior to purchasing the property regarding the appropriate size house required for their needs. She addressed concerns relating to privacy, safety, the welfare of the adjacent properties, and land coverage. She does not want to lose her privacy, receive their snow load or water runoff, have an increased fire hazard, or a decreased property value. She urged denial of the request.

Donna Hawksford, 615 Freel Dr., said the cabin was purchased knowing it was too small. The proposed structure is too large. She stated concerns with property values, privacy, and fire. She would like to have some input on the design before it goes to TRPA.

Piper Smith, 638 Freel Dr., cares about the residents of the community whether they support or oppose the variance. Property rights are the issue. The Whears have tried to negotiate and just want to remodel as others have.

James R. Allen, lives within noticing area, said Marla Bay is a diversified neighborhood and he likes that. He wants to see the older homes retained. This is a small lot that is not exceptional in nature. The smaller homes are more affordable for people and having them will help improve the diversification of the community. He urged denial of the variance to keep the diversity in the community.

Public comment closed.

Member Pross asked for a clarification on the coverage allowed and Mr. Goering responded coverage and height are dictated by TRPA. Member Pross has concerns about fire danger when setbacks are reduced and asked if the county can require that trees be removed. Mr. Goering said that will be part of the review by TRPA and Tahoe-Douglas Fire. Mr. Clark added the parcel was developed prior to the existence of TRPA so the coverage placed on the lot prior to the formation of TRPA remains with the lot. They will go before Tahoe-Douglas Fire to address wildland/urban interface for protection of the parcel itself and for the exterior materials of the house. This house will not require fire suppression but would be highly fire protected under the new codes. Member Pross asked what the difference would be between the sizes of the footprint allowed versus what is being requested. Mimi Moss, Community Development Director, stated it is the placement of the building on the parcel; the coverage would be the same. TRPA sets the height limitation (39' in this case) and looks at BMPs, drainage, and snowshed. Setback limitations were set in 2001 when TRPA requirements were transferred into Title 20 and presume an 8,000 square foot parcel. Those limitations were set with the understanding that there is a variance



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process if someone were to build on unusually shaped parcels or if a property has circumstances that generally do not apply to other properties. Marla Bay has larger and smaller lots, with some being created 50+ years ago. Ms. Moss said the applicant is requesting a setback similar to what is allowed in the valley for smaller lots. Staff was able to make the findings in the affirmative because other single family residential zoning districts typically have larger lots. This does need TRPA review but the county has final say on the building permit.

Member Servatius asked if the HOA has an architectural review committee. Mr. Goering responded that it is not an HOA; it is a Protective Association. If there were CCRs, it would be a civil matter and would not involve the county. Mr. Scott Smith, a director of the Marla Bay Protective Association, said there are CCRs, which were done in 1923 and are quite illegal. There is no architectural review committee but there is a board of directors and they do not interfere in private property rights. It is a voluntary association and all have the ability to join. The \$100 voluntary fee per year is used to maintain the beach and help protect the neighborhood. They meet 4-5 times per year. Member Servatius pointed out viewsheds are not protected. You do not own the airspace or viewsheds. If there is a desire to protect them, one should purchase the lots adjacent to their property.

Member Miner said Marla Bay is a unique community because they always seem to be able to resolve their disputes. It is important to work together to find a solution. The benefit to the community as a whole has to be considered. The increased property values continue to grow there because smart people have invested in their properties.

Member Beattie noticed there is a lot of opposition to this and asked if the issues raised during public comment are taken into consideration. Besides that, a substantial variance to code is being requested. Mr. Goering said staff reviewed the application and formed a recommendation based on the findings. Findings do not address public comment. Hope Sullivan, Planning Manager, said staff looked at the impact on privacy and impact on views to gain a good understanding of it. Staff went to the site and took photos to address that. In looking at those issues as well as the other issues associated with the findings, staff was focused on making the required findings for a variance. Staff has reviewed the correspondence and stands by the staff report.

MOTION by Servatius/Miner to approve Development Application (DA) 14-038, a Major Variance for Todd Whear, based on the ability to make the required findings as identified in the staff report and subject to the recommended conditions; carried unanimously.

- 2. For possible action. Discussion on Planned Development Modification Application (PD) 04-002-1, for D.E. Jansse and Company to modify the Rain Shadow Ranch (formally known as Aloha Ranch) Planned Development (ref. PD 04-002) and to amend a Final Subdivision Map increasing the density in Phase 1, from 17 Lots to 18 Lots, by dividing a 1.52 acre parcel into 2 parcels, the smallest being 0.76 net acres in area. The subject property is located at 1137**

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**Kingston Lane in the SFR-1/2/PD (Single-family Residential, half-acre minimum parcel size Planned Development Overlay) zoning district within the Gardnerville Ranchos Plan Area (APN: 1220-17-615-019). The Planning Commission may recommend approval, approval with modifications or denial of the request to the Board of Commissioners.**

**Case Planner: Dirk Goering, AICP (775) 782-6212 [dgoering@co.douglas.nv.us](mailto:dgoering@co.douglas.nv.us)**

**Case Engineer: Barbra Resnik (775) 782-6234 [brsesnik@co.douglas.nv.us](mailto:brsesnik@co.douglas.nv.us)**

Dirk Goering, Associate Planner, provided the vicinity/noticing map, background on the planned development, final subdivision map of phase 1, 2010 boundary line adjustment that enlarged lot 33, request, proposed site plan, land use designation, zoning district, development agreement, GRGID history, and staff's recommendation for approval. No public comment was received.

Jake Jansse, applicant, said the lot split is consistent with the originally approved tentative map. Currently there are two driveways, two electrical, and two water hookups. Splitting the lots will look better and is a better use of the land.

Member Servatius asked for clarification on the previous commitments of this development as it relates to the transportation plan. Mr. Goering stated Drayton Boulevard is a major collector so the applicant has been required to contribute \$200,000 to that improvement. Currently the county has received \$33,000 of that. That requirement is tied to the building permit. This subdivision was never required to construction Drayton Boulevard all the way to Kimmerling. As homes continue to be developed in that phase, they will pay the fee outlined in the development agreement. This lot is conditioned to amend the development agreement to spread the payment equally throughout the remaining lots.

Mr. Jansse said they are in the process of getting the required water and development rights.

Member Miner asked if the people who paid the full amount would get a refund. Hope Sullivan, Planning Manager, explained the applicant will either amend the existing development agreement or will enter into his own agreement to pay his fair share. The objective is for the additional lot to pay its fair share. Since the full amount has not been paid, there would not be a refund but would be a reduction in the amount they would pay going forward.

PUBLIC COMMENT

Austin Cathey, 924 Springfield Drive, stated his house is on the main thoroughfare north and south through Pleasantview. Drayton would be at his back fence. He will have a main thoroughfare in the front and the back of his house. A sound wall is supposed to be built between Drayton and the back fences. He believes the cost of putting in Drayton and the sound wall will be \$1 million and he cautioned that there may not be enough money collected to do both of those projects. He is not opposed to the division of the lot.

Suzanne Towse, a developer of Rain Shadow Ranch and a principal in Carson Valley Homesites, has no objection to the division of the lot. She would like to ensure that all lots are encumbered by the Rain Shadow Ranch CCRs.



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Public comment closed.

Mimi Moss, Community Development Director, stated CCRs are a civil matter.

MOTION by Miner/Servatius to recommend approval of Planned Development Modification (PD 04-002-1), for D.E. Jansse and Company, based on the ability to make the required findings as identified in the staff report and subject to the recommended conditions; carried unanimously.

**3. For possible action. Discussion on Development Application (DA) 14-035, a Zoning Text Amendment (ref. Ordinance No. 2014-1416 ) initiated by Bill Thomas, E.On Climate & Renewables, to amend Douglas County Code (DCC) as follows: Chapters 20.654.020, 20.656.020, and 20.658.020 (*Permitted, development permitted and special use permit use tables*), 20.660.130 (*Use Regulations, Utility and Public Service Uses*), 20.662.010 (*Agricultural, Forest and Range, and Residential Land Use District Specific Standards Table*), 20.666.010 (*Non-Residential Specific Standards for Permitted, Development Permitted and Special Use Permit Uses Table*) and add 20.664.250 (*Agricultural, Forest and Range, and Residential Land Use Specific Standards, Solar Photovoltaic Facility*), and add 20.668.250 (*Non-Residential Uses Specific Standards, Solar Photovoltaic Facility*) to allow a Solar Photovoltaic Facility as a primary use in the A-19 (Agricultural 19), FR-19 and FR-40 (Forest and Range), LI (Light Industrial), PF (Public Facilities), and RA-5 and RA-10 (Rural Agricultural) zoning districts. The Planning Commission may recommend approval, approval with modifications, or denial of the request to the Board of Commissioners.**

**Case Planner: Hope Sullivan, AICP (775) 782-6200 [hsullivan@co.douglas.nv.us](mailto:hsullivan@co.douglas.nv.us)**

Hope Sullivan, Planning Manager, provided a background on the request, potential negative visual and species habitat impacts, proposed zoning districts requested by the applicant and the districts recommended by staff, proposed supplemental standards to be included in Chapter 20, GIS information on the number of parcels under 100 acres in the Forest & Range and Agriculture zoning districts, input from the Carson Valley Ag Association, findings met to amend the code, and staff's recommendation for approval.

The application before the Planning Commission is to create rules in the code that address this use. If the rules are established in Chapter 20, another applicant could build as well.

Member Servatius is concerned about the possibility of having solar farms scattered across the valley since there are 2346 parcels in the county that are less than 100 acres.

Member Pross agreed with Member Servatius. She stated there are ag goals and policies that do not support this.

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Member Brown asked for a clarification of “by right.” Ms. Sullivan said “by right” means a use of land is allowed without any special permission.

Member Miner thinks this is a broad scale of allowed development of this new industry. This reaches out over multiple planning districts. What experience do we have with this use and how do surrounding jurisdictions handle it? Ms. Sullivan said Douglas County has not worked with this use. Staff reviewed ordinances from 18 different municipalities, clarified NV Energy’s RFP request and the impacts of it, and solicited input from municipalities where there are large facilities similar to this. Carson City is not proposing code for this since they do not have the size land needed. This applicant is looking at a 200 acre site. Member Miner feels this is overreach since we have no experience whatsoever with it. He is not in favor of giving up more agricultural land for a different type of production. Ms. Sullivan believes her job is to protect the ag land and after reading the Master Plan and meeting with the Ag Association, there are circumstances where the ag land is nonproductive. Member Miner thought unproductive ag land may need to be rezoned. This is overreaching at this time. He would like to stay with Forest & Range and see what happens; he does not want to give up any more ag land.

Member Beattie would like to add language ensuring this equipment is maintained in perpetuity and the photovoltaic film is maintained as non-glare. He would like a licensing fee added to cover the cost of the county inspecting these to ensure they are properly maintained.

Mimi Moss, Community Development Director, said a licensing fee or maintenance fee would have to be established by the Board of Commissioners. We do not have that at this time.

Member Servatius agreed with Member Miner’s concerns. He wants to make sure agriculture has economic vitality and other opportunities to prosper. At the same time, this is a little overreaching at this stage since we have no experience with it. Have any sizing requirements been considered since there are many parcels that could become solar farms? He suggested there be a minimum size to restrict the scattering of these around the county. Calling attention to the sage grouse issue, he thought a policy should be established that these solar farms cannot be put into active lek areas. Ms. Sullivan responded a threshold size of 200 acres was considered because it has some merit but the applicant was not supportive of having a threshold and that was taken into account. Citing a possible scenario, Ms. Sullivan talked about the possibility of a subdivision wishing to allocate one of the lots to a community solar facility but 200 acres would not be necessary so the decision was made not to preclude those. Member Servatius would like to see a threshold. He asked for an explanation on how abandoned solar farms would be removed. Ms. Sullivan said the code does not address that but language could be added to mandate the removal at the time it stops functioning. A performance bond could be required also.

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Member Brown asked how much energy a 200 acre farm would produce and where the energy produced would be used. Ms. Sullivan said the beneficiary of the energy will be southern Nevada.

Vice Chairman Madsen said the bonding issue has been brought up many times before but nothing gets done about it. Douglas County needs to require bonds for this type of situation since these solar farms are only 10-15% efficient. Technology will change and make these obsolete. If a bond is not required and the owner walks away, the county will be the loser.

Member Beattie believes all equipment has finite life and in many situations, a whole field could be replaced by new equipment and technology. If the owners go bankrupt or abandon the field, we need to have provisions in the code regarding removal. Ms. Sullivan suggested language stating "when the facility is abandoned or no longer functioning, the land has to be returned to the original state."

Member Miner can only support this in Forest & Range zoning.

Christina Cazares, E.On Climate & Renewables, provided a background on this company and their experience in this field.

Erec DeVost, Ecology & Environment, Inc., provided information on the number of megawatts installed from 2010-2013, what is involved in the development of a utility scale solar project, and visual impacts of solar arrays. He said there are select parcels in the RA-5 zoning that may be suitable for solar development and they would like the Planning Commission to have the flexibility to review those parcels on a project by project basis to determine whether or not they should be developed. They are trying to establish a process so all the companies can compete in this environment.

Some agricultural users are opting to go to solar due to the expense associated with moving water around. Due to the drought, agricultural land that once was productive may not be now. This allows them to diversify the types of revenue they are getting out of their acreage.

Chairman Godecke disclosed his personal holdings and property may be affected by this but this would not materially impact him directly so he will be voting on this item.

Member Servatius asked where these are prohibited and what interface takes place with FEMA when siting these. Mr. DeVost explained the Army Corp of Engineers has different thresholds for disturbances in waters of the United States. To avoid paying the mitigation fees and some of the stipulations of the permits, solar developers try to keep their impacts under ½ acre or 300 linear feet of wash or drainage frontage in order to stay away from the permitting requirements of the Army Corp. of Engineers. If projects exceed that, they could be subject to NEPA review. Member Servatius asked what size solar farm makes the most sense economically. Ms. Cazares stated it depends on the marketability of the project site. For utility scale projects, sizing is

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focused on the end game of the solar project. Member Servatius would like to know what the ideal minimal size is. Ms. Cazares stated it is dependent on the technology used but 160 acres is the minimum.

Member Miner asked if this is addressing both private and utility use of solar since it is being considered across all zoning districts and Ms. Cazares said this would be for utility scale projects. Mr. DeVost said the Text Amendment is written so that this would be the primary use on a parcel. Member Miner said the Master Plan indentified RA-5 zoning for future housing uses so he does not understand why we would want to change that. Mr. DeVost stated the underlying zoning would remain. Ms. Cazares added the request is for solar to be compatible with the existing zoning districts. It will not remove one use and replace it with solar. Member Miner asked about the utilization of water and Mr. DeVost stated the water rights would stay with the landowner. Water would be used during construction for dust suppression but that is a one-time use. Member Miner still thinks this is far overreaching for what the county will need over the next 20 years.

Member Servatius talked about the amount of public land in Douglas County and asked if it is easier to build these in the private sector. Mr. DeVost said the decisions of a federal land management agency are subject to NEPA review. That is an 18 month process. Private land is more attractive because you do not have to deal with the bureaucracy of the federal government and the permitting timelines are shorter.

Member Miner asked how proximity to the grid is determined. Ms. Cazares answered they try to get as close as possible to the substations. There will be more potential for line losses with a longer connection line to the substation. Member Miner wondered if building it along Highway 395 would be closer to the grid but Ms. Cazares said that brings in right of way issues. Mr. DeVost added the challenge to the developer is to deliver energy to a specific point on the grid.

Member Brown asked who would benefit from the megawatts produced from the solar farm. Ms. Cazares said the majority of power generated from the solar project goes into the grid and NV Energy would then distribute it. The landowner may receive a royalty payment or a lease payment however they do not receive a portion of the power.

Vice Chairman Madsen understands their plan as he lives next door to the substation being considered, which has some surrounding RA-5 zoning. This power will be sent to Las Vegas, which will result in considerable IR line losses. He pointed out the amount of vacant desert land between here and Las Vegas but it is easier to deal with us than the federal government. He asked how much inefficiency the solar panels generate every year since they decline over time. Ms. Cazares said the NV Energy contract is a strict O & M plan. If the amount contracted for is not generated, damages would have to be paid. Vice Chairman Madsen asked how many years before efficiency is lost and Ms. Cazares said it loses ½% per year of the actual project size. The life span of a project on 160 acres is 20-30 years.

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Member Pross questioned whether they look for several parcels to total 160 acres if they cannot get one parcel that size. Ms Cazares said yes.

Pointing out that many homesites are elevated and these will be visible, Member Servatius asked if these will be flat panels or trackers. Mr. DeVost said the ordinance does not differentiate between technologies other than it is for photovoltaic only. These will capture sunlight instead of reflect sunlight. There will be no mirrored surfaces and there is a 16' height restriction.

Ms. Moss read into the record some of the uses allowed in RA-5 and RA-10 zoning with a Special Use Permit.

PUBLIC COMMENT

Speaking on his own behalf, Mark Neddenriep cited Policy 2.2 from the Master Plan regarding compatible uses on ag land. Nothing is allowed by right and everything is by Special Use Permit so this use will be decided on a project by project basis. Viewsheds are the biggest problem with solar but these are low to ground and will not impact anyone's viewshed. He would like to remove the language regarding nonproductive ag land because that will be difficult to define. He would like to include RA-5 and RA-10 too. He would like this to be an economic decision. He stated the Ag Association is in favor of allowing solar farms on ag land and are very strong in supporting personal property rights. If the Park Family and Bently support this, we should too. He added seeing these would be less intrusive than seeing the Ridge Tahoe glisten in the sunlight or seeing the MGSD sewer ponds.

Member Miner said the ag community suffers financially every year. If these solar farms were to be successful, would Mr. Neddenriep abandon the ag business in favor of this new industry? Mr. Neddenriep stated he would if he were a large landowner. We need to generate renewable power and it is the way of the future. Member Miner asked if he would recommend the landowners lease the land. Mr. Neddenriep stated that would depend on how much they were willing to pay for the land. Also almost all ranchers hold on to the land for all long as they can. Member Miner said Bently has 50,000 acres in the valley. If they do not want to continue their ag work on some or all of it and would like to be part of this solar industry, they should come forward and say so. Mr. Neddenriep stated they would have that ability under the Special Use Permit. Member Miner asked Mr. Neddenriep how he would feel about not seeing any more cows and green pastures and Mr. Neddenriep said Bently has done wonderful things for this county and they have a right to do what they want with their land. These solar panels will result in personal property taxes for the county.

Matt McKinney, Bently Ranches, said solar panels will not take over the irrigated land. Solar does not pay what farming or cows pay per acre at this time. The middle of the valley will not be covered with solar panels. The electricity produced here will probably stay here since it is going into the grid here and the electricity being brought in from Utah or eastern Nevada will be sent to Las Vegas. They would like to have the option under RA-5 and RA-10 too. Much of that runs up against BLM land and there are no neighbors in those areas so those are places you would want to put



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solar panels. They have identified some possible areas to do this but they do not want impact any neighbors. They want to go as far out as possible but still stay close to transmission lines. There are places in this valley where this makes sense and places where it does not. If someone could partner with BLM, a bigger solar farm could be built. They support having all projects in the valley come under a Special Use Permit and giving landowners another option to do something with their land.

Carlo Luri, Bently Enterprises, Douglas County Economic Vitality Champion, and Chamber of Commerce board member, appreciates the view in the valley. Habitat protection is important too. Not having a clear definition of where solar can be installed in the valley will have a significant economic impact. Companies may not build here if they cannot build a solar array. Renewable energy is good for the environment and it will be good economically to allow renewable energy generation in the community.

Bill Thomas, E.On Climate & Renewals, said most of the electricity generated here would stay in the valley. He stated facilities are not abandoned since they are very costly to build. They build good projects that have good economics but these types of projects are often difficult to build.

Public comment closed.

Member Pross read Policy 2.4 of the Master Plan. She feels you can see further than 100' when driving into the valley. 100' buffer is not enough to mitigate the visual impact. Read was Ag Policy 1.1 and she feels ag is the heart of the valley. Many people come to the valley to visit the ag lands and if all they see is solar panels, it will kill the valley. Most of the properties surrounding A-19, FR-19, and FR-40 are residential. People come here and move here for the beauty of the area. Citing 20.650.010, she stated the purpose of Forest & Range zoning is to preserve open space and open areas for grazing and other agricultural uses. As this new policy is currently written, she has concerns about how it could affect the valley. She does not want to see ag go by the wayside. She cannot support this as written.

Member Miner asked about precedence as it relates to approvals/denials of Special Use Permits. Zach Wadlé, Deputy District Attorney, said each Special Use Permit stands on its own. Ms. Moss added each is site specific and each site is a little different with different mitigation measures applied. Member Miner recognizes the challenges faced by the ag community and sees the potential value of something like this. He suggested a Special Use Permit would be the proper way to proceed with this since it is something we know nothing about.

Member Servatius can support it as proposed with a scale restriction of 160+ acres identified. He does not want to be inundated with Special Use Permit requests.

Member Beattie wondered if this should be tabled until staff comes back with changes to the recommendations.



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Mr. Wadlé, Deputy District Attorney, said this could be sent back to staff with clear direction on the desired amendments to the proposed ordinance.

If there is agreement on the direction among the Planning Commission, Ms. Moss stated it could be forwarded on to the Board of Commissioners for their review. There is no benefit in delaying this and bringing it back if the direction provided today is clear.

Vice Chairman Madsen thinks the threshold of 160 acres makes sense. If they have to lump parcels together to get to that number, the parcels must be contiguous.

Member Pross does not think the 100' buffer is enough. Ms. Moss said the standard is a minimum of 100' setback but it can be greater based on the size, constraints, and other related issues. Ms. Sullivan explained the 100' buffer is addressing reflectivity and not the visual impact from a distance. A setback will not make these disappear.

Vice Chairman Madsen wants language added requiring a bond to protect the county in the event the solar panels are not removed at the end of their life.

Member Brown agreed with Members Servatius and Madsen.

Member Beattie stated he cannot support this until significant changes are made.

MOTION by Brown/ that staff takes the recommendations made by the Planning Commission with regard to bonding; minimum sizing of the project; parcels must be 160 contiguous acres; and determination of unproductive land should be made by the property owners;

*At this point, each member was polled on their thoughts on the inclusion of RA-5 and RA-10 into the allowed zoning districts and the other suggested modifications.*

Member Beattie feels perpetual maintenance and bonding is necessary and should be included and recommended to the Board of Commissioners. All of the items should be reconsidered and brought back for approval. He would have to vote no.

Member Miner agrees with completion bonding, 160 minimum parcel size, and inclusion of RA-5 and RA 10.

Member Brown stated agreement.

Member Servatius stated agreement.

Member Pross would like to include the six month timeframe for inactivity. If not active for six months, it is considered abandoned and the bond goes into effect.

Vice Chairman Madsen stated agreement.

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Chairman Godecke stated agreement with all of it. It is hard to be in ag so the more tools they have to make things work, the better. Solar will change as technology changes but it is positive for the valley to look at renewable energy and generation of it if it is in the right locations. 160 acre minimum size requirement should reduce the number of Special Use Permits that come forward for this type of use.

Summarizing the direction provided, Ms. Sullivan stated the modifications as: a provision to ensure the maintenance of the facilities including collecting a fee for staff time involved in ensuring maintenance; a requirement for the removal of the facility when it was not longer being utilized. Six month abandonment would constitute it being no longer utilized. A performance bond should be obtained in case the sight is not restored to its original condition at the end of the function of the facility, staff can use the performance bond to bring it back to its original condition; a recommendation for a minimum project size of 160 contiguous acres across the zoning board; RA-5 and RA-10 zoning should be included subject to a Special Use Permit; and remove the requirement to prove it is nonproductive soils.

*At this point, the MOTION was withdrawn by the maker.*

MOTION by Beattie/Brown to recommend that the Board of Commissioners adopt Ordinance 2014-1416 amending Douglas County Code, Title 20, Chapters 20.654.020, 20.656.200, and 20.658.020 (Permitted, Development Permitted and Special Use Permit Use Tables), 20.660.130 (Use Regulations, Utility and Public Service Uses), 20.662.010 (Agricultural, Forest and Range, and Residential Land Use District Specific Standards Table), 20.666.010 (Non-Residential Specific Standards for Permitted, Development Permitted and Special Use Permit Uses Table) and add 20.664.250 (Agricultural, Forest and Range, and Residential Land Use Specific Standards, Solar Photovoltaic Facility), and add 20.668.250 (Non-Residential Uses Specific Standards, Solar Photovoltaic Facility) to allow a Solar Photovoltaic Facility as a primary use in the A-19 (Agricultural 19), FR-19 and FR-40 (Forest and Range), LI (Light Industrial), PF (Public Facilities), and RA-5 and RA-10 (Rural Agricultural) zoning districts subject to a Special Use Permit and other standards with the modifications read into the record by Ms. Sullivan; carried unanimously.

There being no further business to come before the Planning Commission, the meeting adjourned at 4:36 p.m.

Respectfully Submitted:

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Lorraine Diedrichsen, Clerk to the Board



Approved:

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Frank Godecke, Chairman

## Douglas County Planning Commission

### AGENDA ACTION SHEET

1. **Title:** For possible action. Discussion on Development Application (DA) 14-049, for Paula Lochridge on behalf of Main Street Gardnerville Program, requesting a Special Use Permit to allow a 12 foot by 16 foot Mural on the side of an existing building owned by Hal Holder, Jr., Holder Hospitality. The subject property is located at 1432 Highway 395, Gardnerville, within the GC (General Commercial) zoning district and the Minden-Gardnerville Community Plan (APN: 1320-33-401-033). The Planning Commission may approve, approve with modifications or deny the request.
2. **Recommended Motion:** Approve Development Application (DA) 14-049, a Special Use Permit to allow a 12 foot by 16 foot Mural on the side of an existing building owned by Hal Holder, Jr., Holder Hospitality, based on the discussion and findings in the staff report and subject to the recommended conditions.
3. **Prepared by:** Lucille Rao, Assistant Planner
4. **Meeting Date:** August 12, 2014                      **Time Required:** 15 Minutes
5. **Agenda:** Public Hearing
6. **Background Information:** Douglas County Code, Title 20, Section 20.604.060 and 20.660.050.N.1, contain the provisions and findings required by the Planning Commission for granting a Special Use Permit for a Mural.
7. **Committee/Other Agency Review:** Town of Gardnerville reviewed and recommended approval at their March 4, 2014 board meeting.
8. **Reviewed by:**  
 Planning Manager                       Community Development Director
9. **Commission Action:**  

<input type="checkbox"/> Approved	<input type="checkbox"/> Approved with Modifications
<input type="checkbox"/> Denied	<input type="checkbox"/> Deferred
<input type="checkbox"/> Other	

Agenda Item #   1



## COMMUNITY DEVELOPMENT

1594 Esmeralda Avenue, Minden, Nevada 89423

Hope Sullivan, AICP

PLANNING MANAGER

775-782-6200

FAX: 775-782-9007

website: [www.douglascountynv.gov](http://www.douglascountynv.gov)

Planning Division  
Engineering Division  
Building Division  
Code Enforcement

### MEMORANDUM

Date: August 12, 2014

To: Douglas County Planning Commission

From: Lucille Rao, Assistant Planner-Direct Line 782-6218

Subject: Special Use Permit (DA) 14-049, for Paula Lochridge on behalf of Main Street Gardnerville Program, requesting a Special Use Permit to allow a 12 foot by 16 foot Mural on the side of an existing building owned by Hal Holder, Jr., Holder Hospitality. Located at 1432 Highway 395, Gardnerville, APN: 1320-33-401-033

#### I. REQUEST

Paula Lochridge on behalf of the Main Street Gardnerville Program is requesting approval of Development Application (DA) 14-049, a Special Use Permit to allow a 12 foot by 16 foot Mural on the side of an existing building owned by Hal Holder, Jr., Holder Hospitality. The subject property is located at 1432 Highway 395, Gardnerville, within the General Commercial (GC), zoning district and the Minden-Gardnerville Community Plan. Upon making the required findings the Planning Commission may approve, approve with modifications, or deny the request.

#### II. RECOMMENDATION

Approve Development Application (DA) 14-049, a Special Use Permit to allow a 12 foot by 16 foot Mural on the side of an existing building based on the discussion and findings in the staff report and subject to the recommended conditions.

The following conditions apply:

#### THE FOLLOWING CONDITIONS MUST BE MET AT THE TIME OF THE SUBMITTAL OF A BUILDING PERMIT:

1. All proposed exterior lighting must conform with Douglas County Code (DCC), Title 20, and Douglas County Design Criteria and Improvement Standards (DCDCIS):
  - a. Light sources must be contained entirely within the fixture housing and be directed downward.
  - b. Light bulbs must be completely recessed within the fixture or within the ceiling of a structure, such that there is less than 90-degree candle luminance cutoff and no excess light spillover into neighboring properties.
  - c. Lights identified as "Night Sky Friendly" are preferred.

**THE FOLLOWING CONDITIONS PERTAIN TO THIS PROJECT:**

2. The applicant must submit any modifications to the approved Special Use Permit to the Community Development Department for review. All modifications must be clouded or otherwise identified on the plans and within the revision block. All revisions are subject to applicable review requirements and fees.
3. If any damage to existing roads is caused by the transporting of construction equipment or materials by the applicant or any contractor of the applicant, the applicant must repair the roads to their prior condition upon notification in writing by the Community Development Department.
4. The applicant must maintain the Mural in good condition during the life of the exhibit.
5. No use authorized by this Special Use Permit shall be enlarged, extended, increased in intensity, or relocated unless an application is made to modify the Special Use Permit in accordance with the procedures required by Douglas County Code.
6. This approval will expire if the project is not inaugurated within two years of the date of approval. Extensions of time may be granted in accordance with Douglas County Code, Section 20.30.020.

**III. BACKGROUND**

Project Information	
Property Owner	Hal Holder, Jr. Holder Hospitality 535 Kietzke Lane #102 Reno, NV 89511
Applicant	Paula Lochridge Main Street Gardnerville 1407 Highway 395 Gardnerville, NV 89410
APN	1320-33-401-033
Zoning Designation	General Commercial
Existing Use	Commercial
Parcel Size	.26 acres

The applicant is requesting a special use permit to allow a 12 foot by 16 foot Mural celebrating the Basque heritage, on the side of an existing building in downtown Gardnerville. A Special Use Permit is required by code for uses of community significance which the commission determines to have significant historic cultural, economic, social, or environmental value to the county, which does not conform to the use regulations of the district in which the use is located as a result of either the adoption or amendment of this code, and which cannot be made conforming through any other discretionary review process under this code. The use of murals falls within this definition.

The applicant has submitted a statement of justification that addresses the findings and specific standards required by County Code, and has provided a site plan and elevations of the proposed Basque Mural.

#### IV. DISCUSSION AND EVALUATION

Staff has reviewed the submitted plans and documents, inspected the site, and offers the following comments:

##### **Noticing**

Property owners within 300 feet of the subject site were noticed of the request.

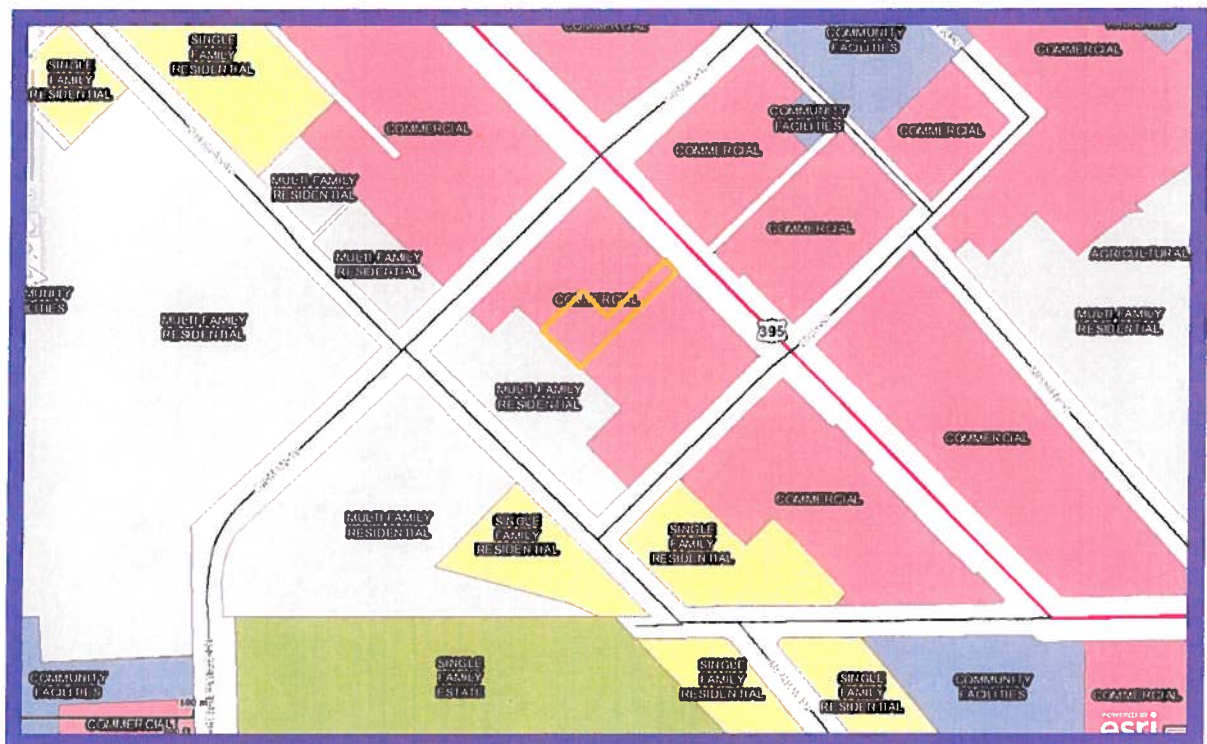
##### **Site Conditions**

The subject parcel is .26 acres in size and the existing vacant building is located between Sharkey's Casino and Yager's Garage on Highway 395 in the Town of Gardnerville.

The proposed Mural will be placed on the south end of the existing building facing north bound traffic on Highway 395.

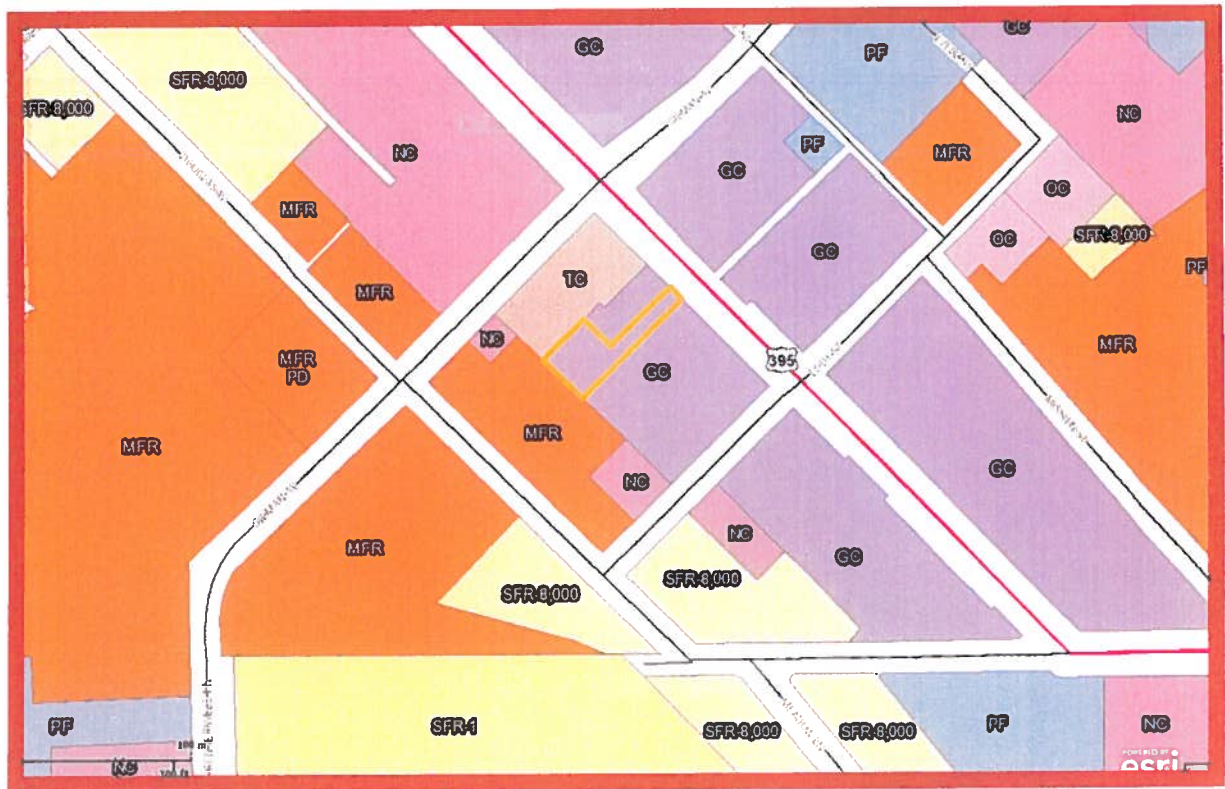
##### **Compatibility with Land Use and Zoning District**

##### **Figure 1.0 Land Use**

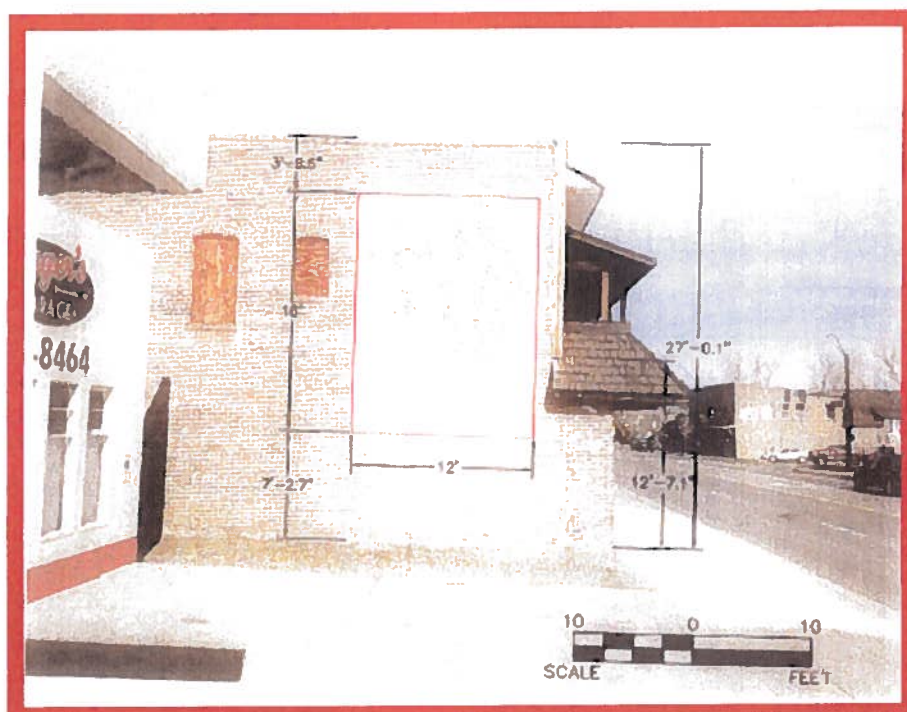




**Figure 2.0 Zoning**



**Figure 3.0 Basque Mural Elevation**



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## V. FINDINGS

### Findings for a Special Use Permit

The following findings required by Douglas County Code Section 20.604.060 are recommended to the Planning Commission for approval of the Special Use Permit based on the evidence provided by the applicant and contained within this staff report:

- A. The proposed use at the specified location is consistent with the policies embodied in the adopted master plan and the general purpose and intent of the applicable district regulations.

**Staff Response:** The proposed use of the Mural preserves and honors the Basque culture and heritage of the area, and serves to educate and stimulate the public's interest. The Historic Preservation Element of the Master Plan defines goals and policies specifically related to the history and culture of Douglas County.

HP Policy 1.1 Douglas County shall support, whenever feasible, the preservation of the county's rich cultural heritage, including the establishment of additional historic districts to protect significant historic properties.

HP Policy 1.5 The preparation of informational materials to educate county residents and visitors about historic, cultural, and archaeological resources will be encouraged

- B. The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhoods and includes improvements or modifications either on-site or within the public rights-of-way to mitigate development related adverse impacts, such as traffic, noise, odors, visual nuisances, or other similar adverse effects to adjacent development and neighborhoods. These improvements or modifications may include, but shall not be limited to the placement or orientation of buildings and entryways, parking areas, buffer yards, and the addition of landscaping, walls, or both, to mitigate such impacts.

**Staff Response:** The applicant's proposal to attach a mural to an existing building will not have any adverse impacts to the neighborhood or traffic.

- C. The proposed use will not generate pedestrian or vehicular traffic that will be hazardous or conflict with the existing and anticipated traffic in the neighborhood.

**Staff Response:** The proposed Mural will not generate hazardous pedestrian or vehicular traffic. It is anticipated that the Mural will attract tourists to park and walk the main street area to discover the history and culture.

- D. The proposed use incorporates roadway improvements, traffic control devices or mechanisms, or access restrictions to control traffic flow or divert traffic as needed to reduce or eliminate development impacts on surrounding neighborhood streets.

**Staff Response:** The proposed use will not generate traffic.

- E. The proposed use incorporates features to minimize adverse effects, including visual impacts, noise, of the proposed special use on adjacent properties.

**Staff Response:** The proposed Mural will not cause adverse effects on neighboring properties, the Mural will enhance the main street corridor. Staff is concerned with the appropriateness of illuminating the mural given the County's "dark sky" policy. Additionally, the proposed lighting is not traditional "art lighting", and may spill lighting over the mural rather than an even illumination. The proposed lighting is conditioned to meet County Code and the Douglas County Design Criteria and Improvement Standards.

- F. The project is not located within an identified archeological/cultural study area, as recognized by the county. If the project is located in a study area, an archeological resource reconnaissance has been performed on the site by a qualified archeologist and any identified resources have been avoided or mitigated to the extent possible per the findings in the report.

**Staff Response:** The site is not located within an identified archeological and/or cultural study area recognized by Douglas County.

- G. The proposed special use complies with all additional standards imposed on it by the particular provisions of Chapter 20.604 (Special Use Permits) and all other requirements of Title 20 applicable to the proposed special use and uses within the applicable base zoning district, including but not limited to, the adequate public facility policies of Title 20.

**Staff Response:** There are no additional standards associated with the use. The use complies with the provisions of Chapter 20.660.050.N.1.

- H. The proposed special use will not be materially detrimental to the public health, safety, convenience and welfare; or result in material damage or prejudice to other property in the vicinity.

**Staff Response:** The proposed Mural will enhance the existing vacant building and will not cause material damage to other properties.

### **Conclusion**

Based on the discussion in this report, Staff has made the required finding in the affirmative and is recommending approval.

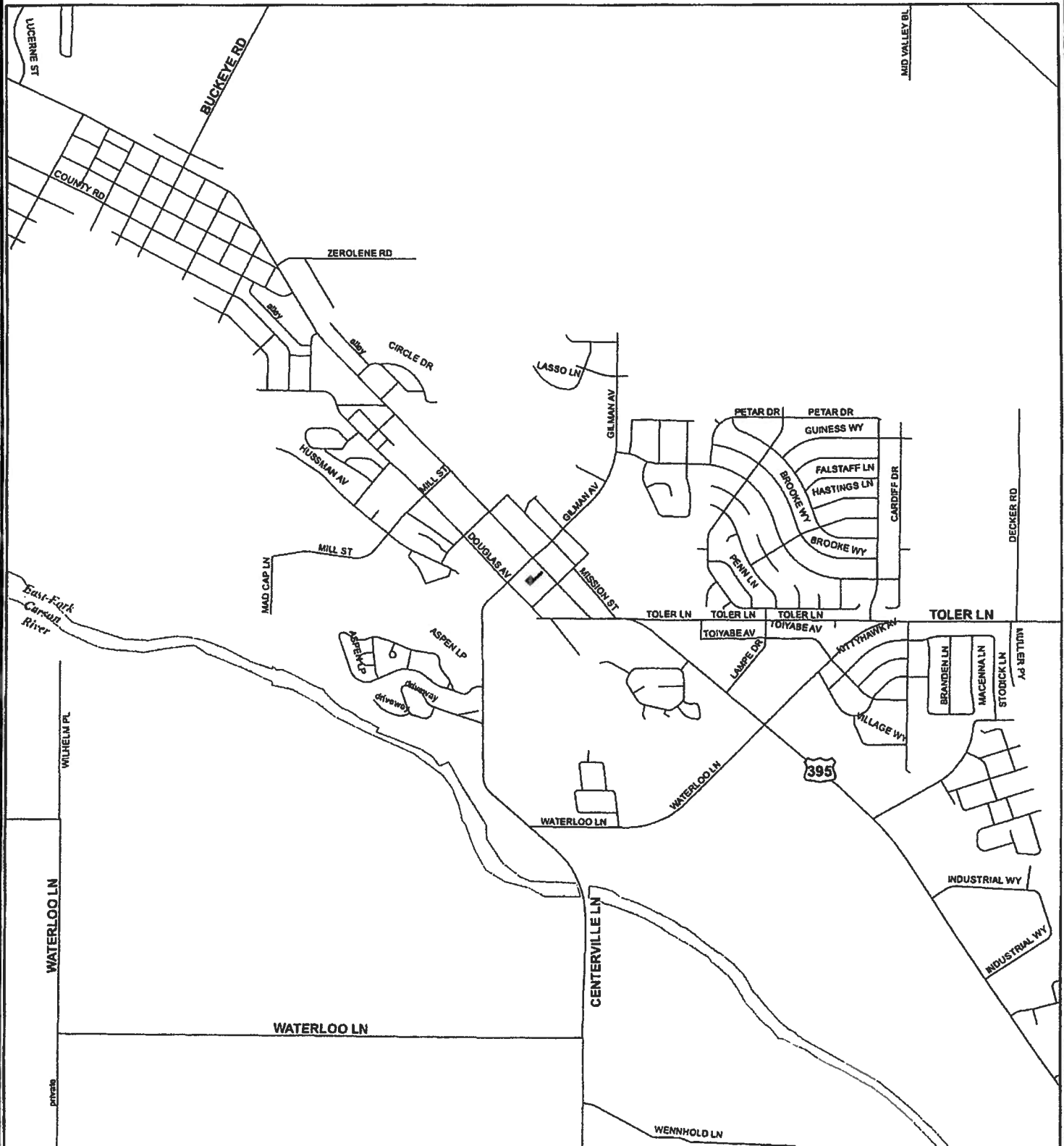
### ***PC Attachments:***

1. Vicinity Map
2. Applicant's Statement of Justification
3. Noticing Radius Map
4. Photo rendering of Mural and artist's work
5. Agreement Document

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# Douglas County Vicinity Map

APN: 1320-33-401-033



1 inch = 1,667 feet



## Legend

 Subject Parcel

Print Date: 6/5/2014

The data contained herein has been compiled on a geographic information system for the use of Douglas County. The data does not represent survey delineation and should not be construed as a replacement for the authoritative source, plat maps, deeds, resurveys, etc. No liability is assumed by Douglas County as to the sufficiency or accuracy of the data.





June 5, 2014

Main Street Gardnerville  
1407 Highway 395 North  
Gardnerville NV 89410  
Plochridge@co.douglas.nv.us

DOUGLAS COUNTY COMMUNITY DEVELOPMENT DEPARTMENT  
Planning Division  
P.O. Box 218  
Minden, Nevada 89423

Subject: **Special Use Permit - Statement of Justification** for the installation of a  
12'x16' mural on the side of the Existing Building  
APN: 1320-33-401-033

To Whom It May Concern:

Enclosed you will find supporting materials for a Special Use Permit Application. The applicant is requesting to mount a frame and mural to an existing wall adjacent to Highway 395 representing the Basque culture and heritage found in the Carson Valley. The mural will be mounted to the south facing wall of the currently vacant building immediately south of the Sharkey's Casino within the Minden-Gardnerville Community Plan area.

The following is a summary of the required findings per Douglas County Code Section 20.604.060 Special Use Permit Findings.

*A. The proposed use at the specified location is consistent with the policies embodied in the adopted master plan and the general purpose and intent of the applicable district regulations;*

**COMMENT:** The proposed mural is celebrating the rich history of culture and the significant role the Basques had on the shaping of the town of Gardnerville to what it is today. Main Street has wanted to celebrate the rich heritage of the Basque community by installing a mural within the town. They have recently acquired the funding to get the artist work completed and located a property owner willing to have the mural installed. The building and location were recently determined. The mural preserves the character of the Basque culture and will recognize their part in the development of Gardnerville.

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*B. The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhoods and includes improvements or modifications either on-site or within the public rights-of-way to mitigate development related adverse impacts, such as traffic, noise, odors, visual nuisances, or other similar adverse effects to adjacent development and neighborhoods. These improvements or modifications may include, but shall not be limited to the placement or orientation of buildings and entryways, parking areas, buffer yards, and the addition of landscaping, walls, or both, to mitigate such impacts;*

COMMENT: The proposed mural will show the pride in the community; creating and maintaining the integrity of the neighborhood and downtown Gardnerville with the mural located in the heart of the Basque neighborhood. The mural will not generate more traffic. Hopefully it will entice people to stop and look at the mural and visit a Basque business located nearby.

*C. The proposed use will not generate pedestrian or vehicular traffic which will be hazardous or conflict with the existing and anticipated traffic in the neighborhood;*

COMMENT: The proposed mural will not generate more traffic on the highway, which is the adjacent road to its location. We are hoping to draw in a few people passing through that will see the mural and wonder what that is and stop and read about the town at an adjacent historical marker placed along the right of way. We do not anticipate this mural generating a hazardous condition.

*D. The proposed use incorporates roadway improvements, traffic control devices or mechanisms, or access restrictions to control traffic flow or divert traffic as needed to reduce or eliminate development impacts on surrounding neighborhood streets;*

COMMENT: This item is not applicable to a mural project.

*E. The proposed use incorporates features to minimize adverse effects, including visual impacts and noise, of the proposed special use on adjacent properties;*

COMMENT: The mural is art. It may be down lit to be visible at night but will be lit by solar powered lighting. We do not have the details of the lighting worked out but it will not have an adverse effect on the adjacent property.



**Statement of Justification – Special Use Permit**  
**Douglas County Community Development**  
**May 5, 2014**  
**Page 3 of 3**

*F. The project is not located within an identified archeological/cultural study area, as recognized by the county. If the project is located in a study area, an archeological resource reconnaissance has been performed on the site by a qualified archeologist and any identified resources have been avoided or mitigated to the extent possible per the findings in the report;*

COMMENT: The project is not located within any identified archeological/cultural study area as recognized by Douglas County.

*G. The proposed special use complies with all additional standards imposed on it by the particular provisions of this chapter and all other requirements of this title applicable to the proposed special use and uses within the applicable base zoning district, including but not limited to, the adequate public facility policies of this title;*

COMMENT: This item does not apply to the proposed mural project.

*H. The proposed special use will not be materially detrimental to the public health, safety, convenience and welfare, and will not result in material damage or prejudice to other property in the vicinity.*

COMMENT: The proposed special use of allowing the placement of a 12'x16' mural on an existing what looks to be an abandoned building with boarded up windows on the blank wall will not be materially detrimental to the public health, safety, convenience and welfare, and will not result in material damage or prejudice to other property in the vicinity.

If you have any questions regarding this application please contact Tom Dallaire at (775) 782-7134

Sincerely,

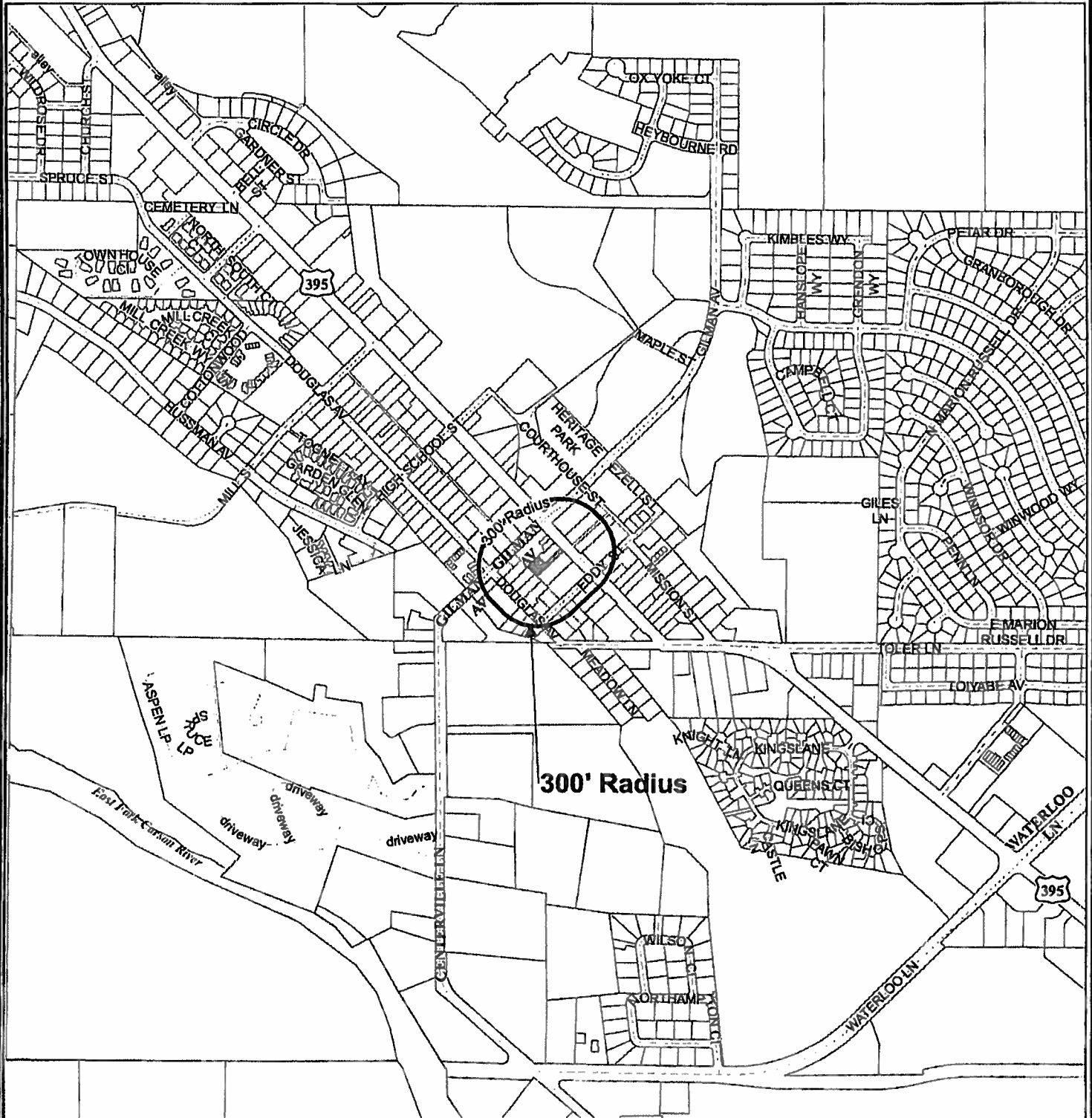


Thomas A. Dallaire, P.E.  
Town Manager  
Town of Gardnerville  
Attachments

# Douglas County Noticing Radius Map

**300' Radius**




APN: 1320-33-401-033



1 inch = 833 feet

Print Date: 6/4/2014



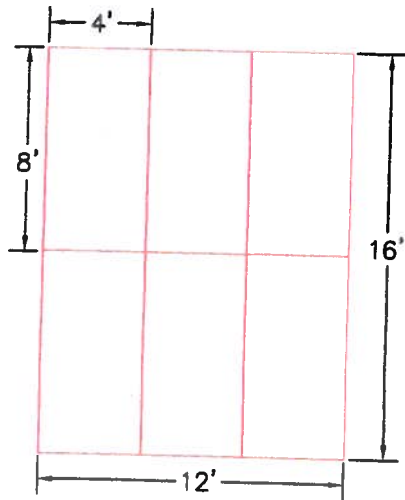
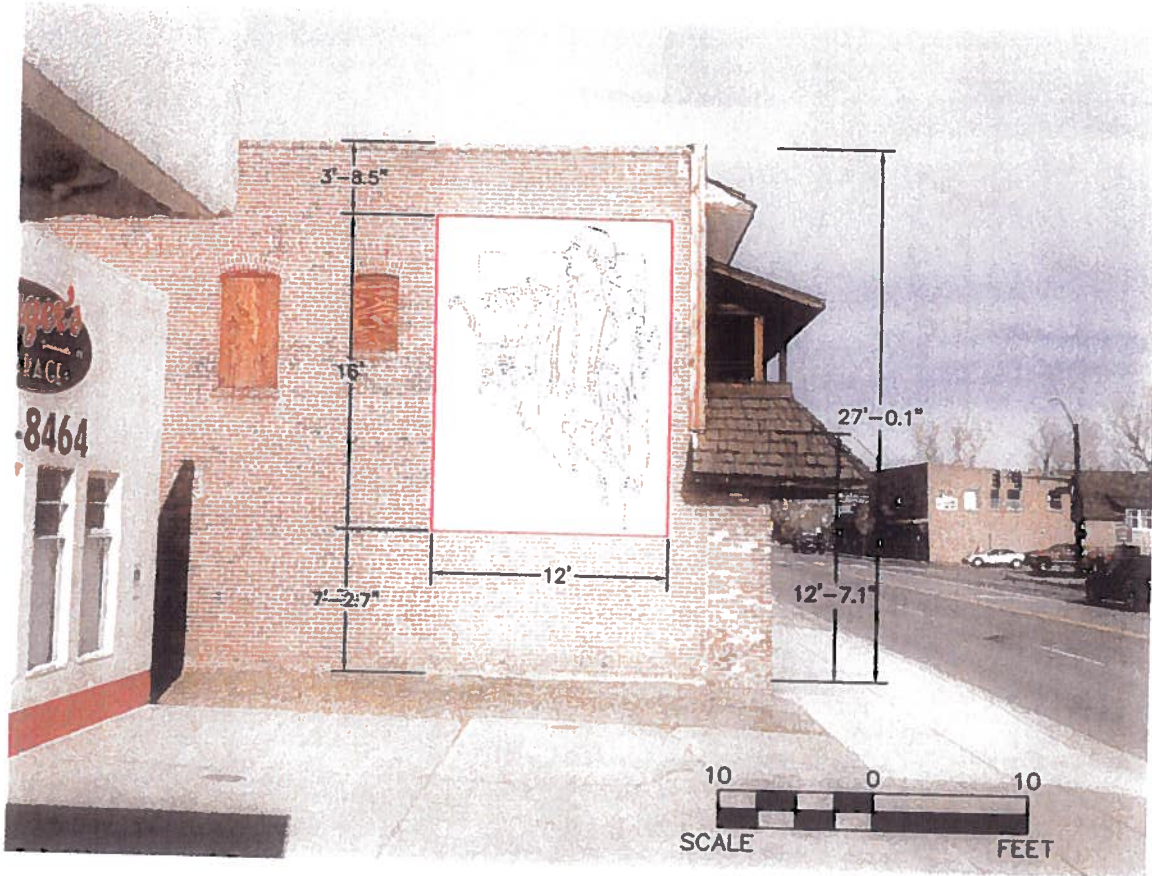
Legend					
	Noticing Radius		Subject Parcel(s)		Parcels Within noticing Radius

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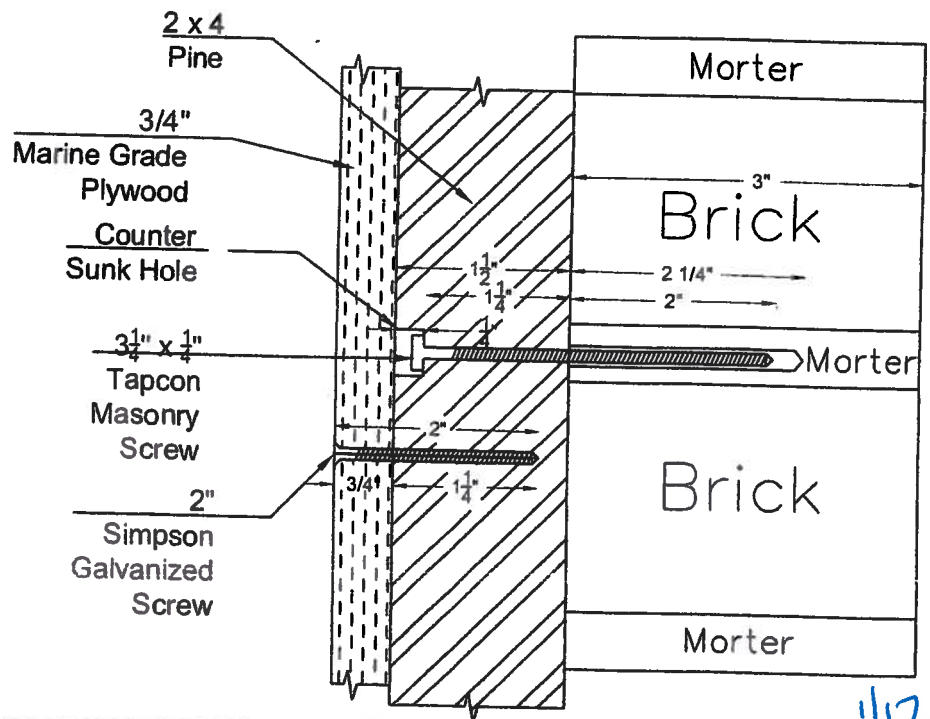


Project:

# 2014 MSG BASQUE MURAL PROJECT



Panel Layout  
Marine Grade Plywood  
6 Sheets  
3/4" x 4' x 8'







1407 Hwy 395, Gardnerville, NV 89410

775-782-8027 • Info@MainStreetGardnerville.org

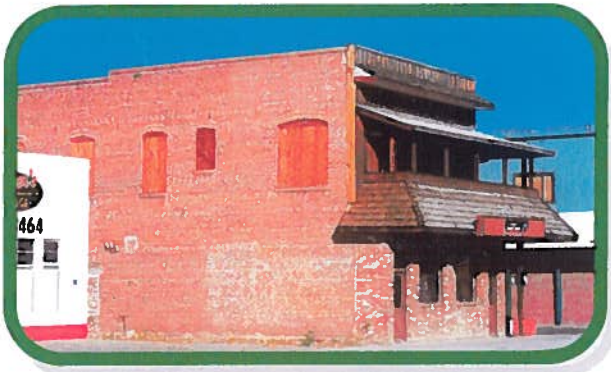
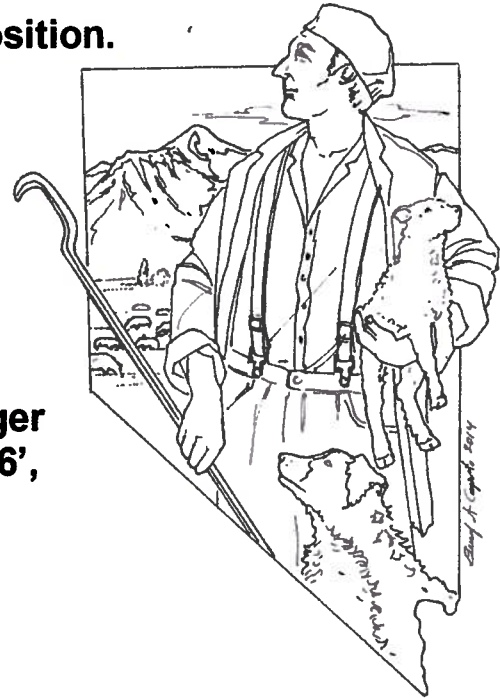
MainStreetGardnerville.org

## Basque Mural Project for the Main Street District

To the right is a simple line drawing for composition.

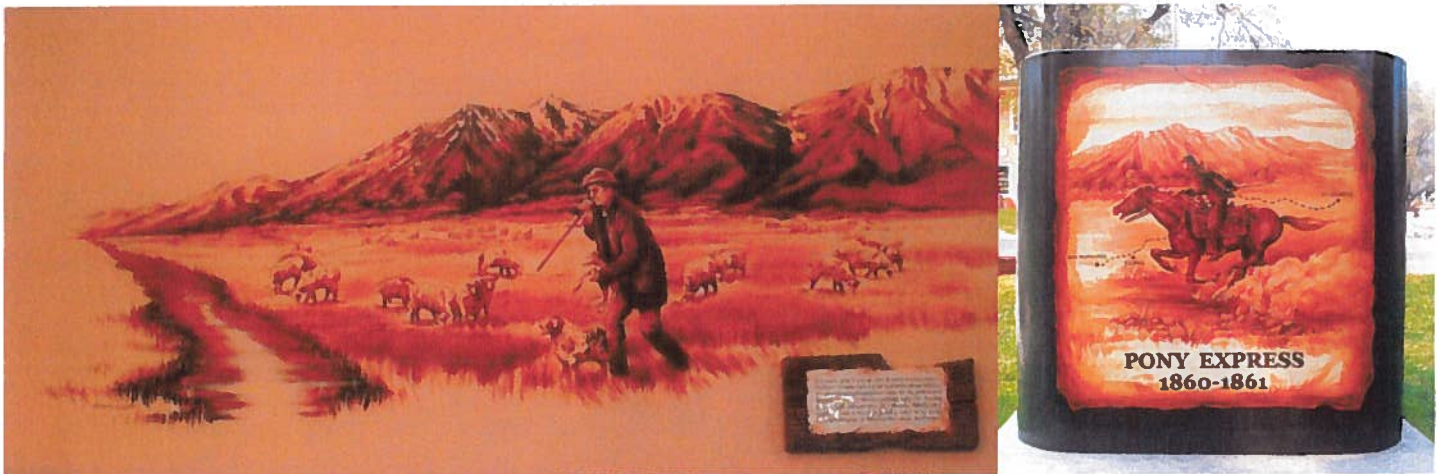
Shown below is the Basque Mural the artist, Beverly Caputo, did at Sharkey's and in the lower right hand corner one of the boxes she painted in Genoa, just to show you the quality of her finished work. These two pieces of artwork are not in color, but the larger mural represented in the proposed sketch will be.

We are hoping to finalize a location for the larger mural soon. The Basque Mural is to be 12' x 16', painted on six 4' x 8' panels. (However, size is dependent on location selected.)



*This is the side view of the old Pyrenees Building..*

Samples of the artist's work...



When recorded please return to:  
Main Street Gardnerville  
1407 Highway 395 N  
Gardnerville NV 89410

## MAIN STREET GARDNERVILLE MURAL PLACEMENT AGREEMENT WITH BUILDING OWNER

THIS AGREEMENT entered into this 9 day of <sup>July</sup> June, 2014, by and between **THE MAINSTREET GARDNERVILLE CORPORATION**, a nonprofit corporation, hereafter referred to as "Main Street Gardnerville", and **HOLDER GROUP SHARKEY'S LLC**, hereafter referred to as "Owner", and as "Owner" of the following described premises situated in Gardnerville, Nevada, to-wit:

Twelve foot by sixteen foot mural mounted to the south facing brick wall with solar down facing lighting on (APN: 1320-33-401-033), located at street address: 1432 Highway 395 North, hereafter referred to as "the Property".

WHEREAS Main Street Gardnerville is desirous of having a mural painting mounted to a two by four frame on the south wall of that building of the Owner which is located on the Property and obtaining the consent of Owner to the mounting of said mural thereon after Owner obtains the consent of the long term lessee of the Property, if any, and after Owner agrees to leave the mural for public observation for a period of five (5) years.

WHEREAS, by Owner's signature hereon, Owner agrees to all the terms of this Agreement.

NOW, THEREFORE, IT IS HEREBY AND BETWEEN THE PARTIES AS FOLLOWS:

1. In consideration of the advertising and business benefits to be delivered, Owner hereby agrees to allow Main Street Gardnerville to have a mural attached to the side of the owner's building, as painted by Beverly A. Caputo, depicting Basque shepherd and dog in substantially the same appearance and location as shown in Exhibit "A".
2. That Owner agrees to leave the mural on the identified wall of Owner's building without alteration or modification in any way, without the consent of Main Street Gardnerville, for a minimum of five (5) years.
3. Main Street Gardnerville further agrees to pay all costs of having the mural painted on panels and installed on a frame mounted on the Owner's wall, and all appurtenances including solar powered down lighting.
4. Main Street Gardnerville agrees to keep the mural in a good state of repair and have the painting retouched as necessary to keep the same in its original condition, reasonable wear and fading excepted.
5. If either party violates any covenant or condition of this contract, the other party shall deliver written notice, specifying the nature of the default and demanding that it be cured. If the defaulting party does not cure the default within 30 days after receipt of such notice, the party giving notice may terminate this contract by giving an additional 10 days written notice after the original notice period.
6. The parties agree that this Mural Agreement shall run with the land and shall bind all persons succeeding to an interest in Owner's building, either by lease or sale.

7. Main Street Gardnerville shall retain the following rights to the mural placed on Owner's building:
  - a. To use the mural or reproductions of the mural or mural image for publicity and/or fund raising purposes.
  - b. Members of the public may photograph or video the mural for non-commercial purposes.
  - c. The various members of the media, including, but not limited to, newspapers, magazines, newsletters, television stations, and movie makers may photograph, film, or video tape the mural.
  - d. Main Street Gardnerville may make or authorize the making of maps, pamphlets, or similar items which depict the mural and the mural's location.
8. This agreement shall automatically be extended for an additional five (5) year term on the same terms and conditions unless either party, at least thirty (30) days prior to the expiration of the current 5 year term, notifies the other party in writing of its decision to not renew the contract for an additional five (5) year term.
9. In the event the agreement is terminated or the mural is damaged by fire, vandalism or other casualty, not otherwise covered by insurance, to the extent it is deemed to be un-repairable by Main Street Gardnerville, this agreement shall terminate and be null and void and both parties are released here from. Main Street Gardnerville will remove the mural and frame and repair the wall to a condition prior to the mural installation.

IN WITNESS WHEREOF, the parties executed this agreement at Gardnerville, Nevada the day and year first above written.

**MAIN STREET GARDNERVILLE**

State of Nevada, County of Doeglas  
 On, July 15, 2014  
 \_\_\_\_\_ who is personally know to me  
☒ whose identity I proved on the basis of  
NV driver's license  
 to be the signer of the above document, and he/she  
 acknowledged that he/she signed it.

[Signature]  
 Notary Public

**MAIN STREET GARDNERVILLE CORPORATION,**  
 A non-profit corporation,

By [Signature]



**OWNER:**

State of Nevada, County of WASHOE  
 On, JULY 9, 2014 HAROLD D. HOLDGERS  
☒ who is personally know to me  
 \_\_\_\_\_ whose identity I proved on the basis of  
 \_\_\_\_\_  
 to be the signer of the above document, and he/she  
 acknowledged that he/she signed it.

[Signature]  
 Notary Public

**HOLDER GROUP SHARKEY'S LLC**

By [Signature]

By \_\_\_\_\_



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## Douglas County Planning Commission

### AGENDA ACTION SHEET

1. **Title:** For possible action. Recommendation regarding Ordinance 2014-1418, a zoning text amendment to Douglas County Code (DCC), Title 20 to prohibit medical marijuana establishment (MME) uses as defined by Nevada Revised Statutes (NRS) Chapter 453A in all Douglas County zoning districts; deleting section 20.01.120 Moratorium on Medical marijuana establishments; adding a new section 20.660.170 Medical marijuana establishment uses which prohibits the MME use in all zoning districts; adding a definition for MME in Appendix A Definitions; and other properly related matters.

2. **Recommended Motion:** Recommend adoption of Ordinance 2014-1418.

3. **Prepared by:** Cynthia Gregory, DDA & Hope Sullivan, AICP, Planning Manager

4. **Meeting Date:** August 12, 2014 **Time Required:** 20 minutes


5. **Agenda:** Public Hearing

6. **Background Information:** Proposed Ordinance 2014-1418 prohibits MME uses in all Douglas County zoning districts as directed by the Board of County Commissioners (Board) following its July 3, 2014 meeting. The proposed ordinance deletes the Douglas County Code language imposing the temporary moratorium and adds a new section 20.660.170 which states the MME uses are prohibited and clarifies individual medical marijuana cardholders can continue to use medical marijuana as regulated and permitted by NRS Chapter 453A. Lastly, the proposed Ordinance amends Appendix A Definitions to include a definition of medical marijuana establishments.

The proposed Ordinance is being brought forward pursuant to the Board's Constitutionally delegated authority as set forth in NRS Chapters 244, 278 and 453A, including but not limited to 244.195, 244.357, 278.020, 278.250, 278.260, 453A.322, 453A.326 and 453A.350. A reasonable and responsible amount of time has been taken in determining what is in the best interest of the County following consideration of a massive amount of information, numerous public hearings and the Douglas County Master Plan as well as federal, state and local laws.

7. **Committee/Other Agency Review:** The Board of County Commissioners will consider introduction of the Ordinance at its meeting of August 7, 2014. The recommendation of the Planning Commission will be reported to the Board at the time of second reading. (Attachment 1: August 7, 2014 Report to the Board of Commissioners)

8. **Reviewed by:**  
HVS Planning Manager

 Community Development Director

9. **Commission Action:**

☐ Approved  
☐ Denied  
☐ Other

☐ Approved with Modifications  
☐ Deferred

Agenda Item # 2



COMMUNITY DEVELOPMENT  
1594 Esmeralda Avenue, Minden, Nevada 89423

**Mimi Moss**  
**DIRECTOR**

775-782-6201  
FAX: 775-782-6297  
website: [www.douglascountynv.gov](http://www.douglascountynv.gov)

Building Division  
Engineering Division  
Planning Division  
Code Enforcement

**ATTACHMENT 1**

## MEMORANDUM

DATE: August 7, 2014

TO: Douglas County Board of Commissioners

From: Cynthea Gregory, DDA & Hope Sullivan, Planning Manager, Community Development

Subject: Ordinance 2014-1418 Prohibiting Medical Marijuana Establishment Uses

### I. REQUEST

Introduce Ordinance 2014-1418, a zoning text amendment to Douglas County Code (DCC), to prohibit medical marijuana establishment (MME) uses as defined by NRS Chapter 453A in all Douglas County zoning districts. (See BOC Attachment 1)

### II. BACKGROUND

Following numerous public hearings, public comment, evaluation of local resources, community need, potential community impact as well as state and federal laws, on July 3, 2014, the Board determined it was in the best interest of the County to direct staff to bring forward an Ordinance prohibiting medical marijuana establishment uses within all Douglas County zoning districts.

The 2013 Nevada Legislature adopted Senate Bill 374 (SB 374) also known as the Medical Marijuana Act during its 77<sup>th</sup> Session, which was approved by the Governor. SB374 provided for the potential to have a medical marijuana establishment use, including independent testing laboratory, medical marijuana cultivation facility, medical marijuana production facilities for edible and infused marijuana products and medical marijuana dispensaries, to be located within the State of Nevada upon compliance with local zoning regulations as well as state and local licensing requirements.

Numerous public hearings on medical marijuana establishment uses and the County's options for prohibiting the use or allowing the use with restrictions have been held.

2/1

Public Hearing Dates<sup>1</sup>:

Douglas County Commission (Resolution 2014R-014 & introduction of Ord. 1403)	February 6, 2014
Douglas County Planning Commission	February 11, 2014
Douglas County Commission (Ord. 1403 adopted)	March 6, 2014
Town Board of Genoa	May 20, 2014
Town Board of Gardnerville	June 3, 2014
Town Board of Minden	June 4, 2014
Douglas County Planning Commission	June 10, 2014
Board of Director, Kingsbury GID	June 17, 2014
Board of Directors, Indian Hills GID	June 18, 2014
Board of Directors, Gardnerville GID	June 25 & July 2, 2014
Douglas County Commission	July 3, 2014

### III. ANALYSIS

There are many reasons which support a decision to prohibit MME uses in all Douglas County zoning districts. These reasons include, but are not limited to:

**(1) Input from the Planning Commission, Towns and GIDs.** None of the unincorporated Towns, Genoa, Gardnerville or Minden, recommend the Board allow MME uses within any zoning districts in their respective towns. Nor did the Board of Trustees for Kingsbury, Indian Hills or Gardnerville Ranchos General Improvement Districts<sup>2</sup>, support MME uses within their specific areas.

- ☞ **Planning Commission:** Vote 3/2 in favor of opting out
- ☞ **Town of Genoa:** No formal action-not appropriate for community/character of Genoa
- ☞ **Town of Gardnerville:** No formal action- general support for opting out & revisiting the issue in a couple years
- ☞ **Town of Minden:** Vote 5/0 in favor of opting out
- ☞ **Kingsbury GID:** No formal action; general statements supportive of opting out for now
- ☞ **Indian Hills GID:** Vote 4/1 in favor of opting out
- ☞ **Gardnerville Ranchos GID:** Vote 5/0 in favor or opting out

**(2) The cultivation, possession, or use of marijuana is still prohibited by federal law.** The U.S. Congress has declared marijuana an illegal Scheduled I drug within the Controlled Substances Act, which means marijuana has a high potential for abuse and no currently accepted medical use in treatment in the United States. The United States Supreme Court has held that the Federal Controlled Substances Act validly prohibits local cultivation, and use of marijuana under

<sup>1</sup> Incorporated herein are the staff reports, presentation material, public comment and minutes from each public meeting, the Douglas County documents are available online at [www.douglascounty.nv.gov](http://www.douglascounty.nv.gov) or can be requested from the Douglas County Clerk's office.

<sup>2</sup> Douglas County has over 15 different GIDs; staff presented the material to Indian Hills GID as it has a large portion of the County's commercial land use within in its boundary or in the immediate vicinity. Gardnerville Ranchos GID was selected as it had the largest reported number of medical marijuana cardholders and has the largest residential population. Kingsbury GID was selected as it encompasses a substantial portion of the commercial land use within its boundary or in the immediate vicinity for the portion of the County located within Lake Tahoe. No other GID requested staff to present to its Board of Trustees.

all circumstances (*Gonzalez v. Raich*, 125 S.Ct. 2195(2005)) and the Federal Controlled Substances Act prohibits marijuana use, distribution and possession and that no medical necessity exception exists to these prohibitions. (*United States v. Oakland Cannabis Buyer's Cooperative*, 121 S.Ct. 1711(2001)). While the US Attorney General's Office has not been aggressively prosecuting users of marijuana, this policy may change at any time. Both the U.S. Department of Justice, Drug Enforcement Administration and The White House Office of National Drug Control Policy both recognize and warn of the dangers and consequences of marijuana as set forth in articles attached to previous staff reports. Moreover, medical marijuana establishments are still a target of federal prosecution and are subject to police raids, seizures and arrests. (See BOC Attachment 2, Colorado & City of South Lake news articles on federal investigations or prosecutions) Douglas County should not be in the position of allowing, promoting or licensing a use that is specifically prohibited by federal law.

**(3) There may be an increase in marijuana related crimes.** The issue of whether the opening of medical marijuana dispensaries causes an increase in crime is currently being debated by those in support of and against medical and recreational marijuana use. Unbiased statistical data will hopefully be published in the future. Currently there are articles and statements on both sides of the debate. However, the Douglas County Sheriff's Office which is the chief law enforcement agency for the County is opposed to medical marijuana establishment uses, in part based on public safety concerns as other states have seen a significant increase in marijuana impaired drivers, and traffic fatalities attributable to marijuana impaired drivers. (BOC Attachment 3 Sheriff's Office Position Paper). Locally, it is also important to recognize the criminal activity which occurred in a small, neighboring jurisdiction. The City of South Lake Tahoe, which is located directly adjacent to Douglas County, experienced crime associated with the opening of medical marijuana businesses, including burglary and the explosion of an incendiary device. (BOC Attachment 4 Lake Tahoe News Articles)

**(4) MME use doesn't fit with the character<sup>3</sup> of Douglas County.** The majority of public comment received from residents at the various public hearings was in support of the County prohibiting medical marijuana establishment uses through zoning regulations. One theme repeatedly expressed by the commenters was medical marijuana establishment uses do not fit with the character of Douglas County. Douglas County is a large rural family oriented community with limited resources and a long tradition of applying strict zoning and land use standards to protect the unique qualities and communities within Douglas County.

The Douglas County Strategic Plan includes a vision for "A Community to Match the Scenery." Medical marijuana establishments do not foster a safe, healthy, scenic and vibrant community for the enjoyment of Douglas County residents and visitors. Priorities for the County include a safe community and preservation of the natural environment, resources and cultural heritage which is consistent with and supported by the proposed Ordinance to prohibit medical marijuana establishment uses. Also a goal of the Douglas County Master Plan, which is repeated throughout the various community plan areas, is to preserve and enhance the existing character of the community. Medical marijuana establishments are a new potential use which will impact the character and community. There is serious public concern, based on input, recommendations

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<sup>3</sup> *Garvin v. Ninth Judicial Dist. Court*, 118 Nev. 749, 765, 58 P.3d 1180, 1190 (2002).

and comment that some of the impacts will negatively change the character of the existing County and the character of individual communities in which an establishment may locate.

**(5) Negative impact on Douglas County youth.** The Community Partnership of Community Resources<sup>4</sup> and Students Taking on Prevention, Douglas County School representatives, Douglas County Chief Juvenile Probation Officer as well as current and former Douglas County students have testified to the negative impact of medical marijuana on youth. Concerns range from the increased access to marijuana from cardholders, either through secondary sales or availability in the home, to impairment of cognitive abilities and producing a healthy, competent future workforce. School representatives note disciplinary problems with students who use marijuana, and support prohibiting medical marijuana establishment uses. (See BOC Attachment 5) The Chief Juvenile Probation Officer recognizes marijuana as a gateway drug and the negative effects of marijuana on youth and the potential for long-term addiction, thus it also supports prohibiting medical marijuana establishment uses. Additionally, the Sheriff's office expressed concern over the perception of marijuana as a medicinal drug versus an illegal drug by children, which has been noted through its fifth grade DARE education program.

**(6) Negative Fiscal Impact.** The state regulations for MMEs are extensive. The Division of Public and Behavioral Health has been tasked with implementing and enforcing the regulations. There is legitimate concern the state will not provide adequate monitoring and enforcement of the medical marijuana establishments. Thus leaving the County to respond to concerns and complaints from its residents. The County would need to provide resources and manpower to regulate and monitor these establishments at a level that will ensure the protection of public health, safety and general welfare. Douglas County does not issue business licenses, thus it does not collect any business license fees. It is anticipated any revenue from medical marijuana establishments would be minimal when compared to the cost of regulating them. The only potential revenue for Douglas County would be the County designated portion of the sales tax and some revenue from property taxes. Douglas County is only allowed one dispensary and it would be unlikely that a significant number of production facilities or cultivation facilities would locate within Douglas County as the majority of dispensaries will be located in Washoe (10) and Clark (40) Counties<sup>5</sup>.

**(7) Medicinal marijuana is still available for Douglas County medical marijuana card holders.** The population of the County as of the 2010 Census was 46,997. As of July 1, 2013 there were a reported 151 medical marijuana card holders residing in Douglas County. Less than half of one percent of the Douglas County population can legally use medical marijuana. Douglas County recognizes that medical use of marijuana is allowed by the Nevada Constitution. As well as, the ability of cardholders to grow up to 12 marijuana plants and possess 2.5oz of marijuana and 2.5oz of marijuana products every 14 days. The County also has identified neighboring Nevada jurisdictions such as Washoe County and Carson City, which have authorized medical marijuana establishment uses and could be conveniently accessed, including delivery services, to cardholders. Testimony or comment was received that Douglas County

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<sup>4</sup> Additionally, at the request of the Partnership of Community Resources, the Deputy District Attorney and staff from the Community Development Department presented factual information regarding SB 374 to its Advisory Board on June 12, 2014.

<sup>5</sup> Clark County has required medical marijuana dispensaries located within Clark County to only purchase marijuana cultivated in Clark County. See Title 30, Chapter 30.44, Table 30.44-1 Clark County Code.

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residents, due to the rural nature and size of the community, often access services not available within the County, including health services in Washoe County and Carson City.

**(8) Douglas County Board of Commissioners has been delegated the authority to regulate medical marijuana establishment uses.** The Douglas County Board of County Commissioners may make and enforce within its boundaries all local, police, sanitary, zoning and other ordinances and regulations not in conflict with the general laws as set forth in the Nevada Revised Statutes and Nevada Constitution<sup>6</sup>. Additionally the Board has been empowered by the Nevada Legislature to regulate and restrict the improvement of land and to control the location of structures for the purpose of promoting the health, safety, morals or the general welfare of the community. Zoning is a legislative matter. The Nevada Legislature has authorized the Board to provide for zoning districts and to establish the process for amending, supplementing or changing zoning<sup>7</sup> as the Board is in the best position to decide whether medical marijuana establishment uses are appropriate in any zoning district considering the Board's familiarity with zoning and the areas it represents. Such authority is set forth in Nevada law, including, but not limited to the following statutes:

*Nev. Const. art. 4, sec. 26.*

The Legislature shall provide by law, for the election of a Board of County Commissioners in each County, and such County Commissioners shall jointly and individually perform such duties as may be prescribed by law.

*NRS 278.020 Regulation by governing bodies of improvement of land and location of structures for general welfare.*

1. **For the purpose of promoting health, safety, morals, or the general welfare of the community, the governing bodies of cities and counties are authorized and empowered to regulate and restrict the improvement of land and to control the location and soundness of structures.**

...

*NRS 278.250 Zoning districts and regulations.*

1. **For the purposes of NRS 278.010 to 278.630, inclusive, the governing body may divide the city, county or region into zoning districts of such number, shape and area as are best suited to carry out the purposes of NRS 278.010 to 278.630, inclusive. Within the zoning district, it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land.**

...

3. The zoning regulations must be adopted with reasonable consideration, among other things, to the **character of the area** and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city, county or region.
4. In exercising the powers granted in this section, the **governing body may use any controls relating to land use or principles of zoning that the governing body determines to be appropriate**, including, without limitation, density bonuses, inclusionary zoning and minimum density zoning.

...

<sup>6</sup> See NRS 244.195 and 244.357

<sup>7</sup> *Eagle Thrifty v. Hunter Lake P.T.A.*, 85 Nev. 162,164, 451 P.2d 713,714 (1969) citing *McKenzie v. Shelly*, 77 Nev. 237,362 P.2d 268 (1961).

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*NRS 278.260 Determination, establishment, enforcement and amendment of zoning regulations, restrictions and boundaries: Procedure and prerequisites; notice and hearing; signs; additional fee for certain applications.*

1. The governing body shall provide for the manner in which zoning regulations and restrictions and the boundaries of zoning districts are determined, established, enforced and amended.

...

The ability to restrict uses per zoning regulations includes the ability to prohibit uses per zoning regulations as long as state law and local zoning regulations are not in conflict<sup>8</sup>. Preemption of the Douglas County Board of County Commissioners authority will not be implied when the Nevada Legislature<sup>9</sup> permits or recognizes local regulation as is written in the language of SB 374 and as enacted in NRS 453A. The Board is authorized to enact zoning restrictions and medical marijuana establishments are required to comply with all local ordinances and rules pertaining to zoning and land use:

*NRS 453A.322 Registration of establishments: Requirements; expiration and renewal.*

1. Each medical marijuana establishment must register with the Division.
2. A person who wishes to operate a medical marijuana establishment must submit to the Division an application on a form prescribed by the Division.
3. Except as otherwise provided in NRS 453A.324, 453A.326, 453A.328 and 453A.340, not later than 90 days after receiving an application to operate a medical marijuana establishment, the Division shall register the medical marijuana establishment and issue a medical marijuana establishment registration certificate and a random 20-digit alphanumeric identification number if:
  - (a) The person who wishes to operate the proposed medical marijuana establishment has submitted to the Division all of the following:
    - (1) The application fee, as set forth in NRS 453A.344;
    - (2) An application, which must include:

...
  - (5) If the city, town or county in which the proposed medical marijuana establishment will be located has enacted zoning restrictions, proof of licensure with the applicable local governmental authority or a letter from the applicable local governmental authority certifying that the proposed medical marijuana establishment is in compliance with those restrictions and satisfies all applicable building requirements; and
  - (6) Such other information as the Division may require by regulation;

...

*NRS 453A.326 Registration of establishments in larger counties: Limitation on number of medical marijuana dispensaries located in any one governmental jurisdiction within county; limitation on number of certificates issued to any one person; certificates deemed provisional pending compliance with local requirements and issuance of local business license. . .*

3. In a local governmental jurisdiction that issues business licenses, the issuance by the Division of a medical marijuana establishment registration certificate shall be deemed to be provisional until such time as:
  - (a) The establishment is in compliance with all applicable local governmental ordinances or rules; and
  - (b) The local government has issued a business license for the operation of the establishment.
4. As used in this section, "local governmental jurisdiction" means a city, town, township or unincorporated area within a county.

*NRS 453A.350 Location, land use, appearance and signage.*  
Each medical marijuana establishment must:

<sup>8</sup> *Lamb v. Mirin*, 90 Nev. 329, 526 P.2d 80 (1974).

<sup>9</sup> *Flick v. City of Las Vegas*, 104 Nev. 87, 752 P.2d 235 (1988); *Lamb v. Mirin*, 90 Nev. 329, 526 P.2d 80 (1974).

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1. Be located in a separate building or facility that is located in a commercial or industrial zone or overlay;
2. Comply with all local ordinances and rules pertaining to zoning, land use and signage;
- ...

## II. FINDINGS

In order for the ordinance to be adopted the Board must make the following findings in the affirmative per DCC 20.610.050 as follows:

- A. That the proposed amendment is consistent with the policies embodied in the adopted Master Plan and the underlying land use designation contained in the land use plan.*

### Staff Response:

The proposed zoning text amendment is consistent with Land Use Policies 2.4 and 3.3, that support the use of appropriate and reasonable zoning regulations to ensure land use compatibility. The proposed zoning text is also consistent with the Douglas County Strategic Plan and local community input and comments. Land Use Policies 2.4, Policy 3.3 and Goal 4 as well as Community Plan Goals, see GE Goal 1, MG Goal 1, IH/JV Goal 1, GR Goal 1, JL Goal 1, FH Goal 1, RH Goal 1, FS Goal 1 PN Goal 1, and S Goal 1 as referenced below:

- LU Policy 2.4 Douglas County shall use its planning and development regulations to protect residential neighborhoods from encroachment of incompatible activities or land uses which may have a negative impact on the residential living environment.
- LU Policy 3.3 Douglas County shall revise its zoning districts and other development regulations as appropriate and on a continuing basis to allow development compatible with the Master Plan land use designations.
- LU Goal 4 To recognize the distinct character of individual communities and encourage land uses consistent with this character.
- The community plans, incorporated into the Land Use Element of the Master Plan, for the Genoa, Minden-Gardnerville, Indian Hills/Jacks Valley, Gardnerville Ranchos, Johnson Lane, Foothill, Ruhenstroth, Fish Springs, Pinenut and Sierra areas all have an identified Master Plan goal to preserve and enhance the existing character of the community. (See GE Goal 1, MG Goal 1, IH/JV Goal 1, GR Goal 1, JL Goal 1, FH Goal 1, RH Goal 1, FS Goal 1 PN Goal 1, and S Goal 1.)

As set forth above, a massive amount of information has been considered and a reasonable and responsible amount of time has been taken in determining what is in the best interest of the County. Prohibiting medical marijuana establishment uses in all zoning districts is based on numerous public hearings regarding medical marijuana establishment uses; receiving public comment; considering advisory recommendations or input from the Planning Commission, Town of Minden, Town of Genoa, Town of Gardnerville, Kingsbury General Improvement District, Indian Hills General Improvement District and Gardnerville Ranchos General Improvement District; considering input from the Carson Valley Chamber of Commerce and other local non-profit charitable organizations; reviewing SB 374, regulations adopted by the Division of Public

and Behavioral Health as R004-14; considering the Douglas County Code and the Douglas County Master Plan; reviewing Federal law, the Nevada Constitution, responses by neighboring jurisdictions to SB 374; evaluating the potential impacts of medical marijuana establishments on the health, safety, morals, and the general welfare of the community at large, the Douglas County School District, Douglas County resources, the Douglas County Sheriff's Department and Juvenile Probation, including the potential for increased criminal activity and secondary use by minors; and need for MMEs based on the County's total population.

*B. That the proposed amendment will not be inconsistent with the adequate public facilities policies contained in Douglas County Code, Title 20.*

**Staff Response:** The zoning text amendment is consistent with the adequate public facilities policies. The proposed amendment prohibits medical marijuana establishment uses, thus having no impact on public facilities and allowing the development of other commercial, industrial and residential uses.

As set forth above, a massive amount of information has been considered and a reasonable and responsible amount of time has been taken in determining what is in the best interest of the County. Prohibiting medical marijuana establishment uses in all zoning districts is based on numerous public hearings regarding medical marijuana establishment uses; receiving public comment; considering advisory recommendations or input from the Planning Commission, Town of Minden, Town of Genoa, Town of Gardnerville, Kingsbury General Improvement District, Indian Hills General Improvement District and Gardnerville Ranchos General Improvement District; considering input from the Carson Valley Chamber of Commerce and other local non-profit charitable organizations; reviewing SB 374, regulations adopted by the Division of Public and Behavioral Health as R004-14; considering the Douglas County Code and the Douglas County Master Plan; reviewing Federal law, the Nevada Constitution, responses by neighboring jurisdictions to SB 374; evaluating the potential impacts of medical marijuana establishments on the health, safety, morals, and the general welfare of the community at large, the Douglas County School District, Douglas County resources, the Douglas County Sheriff's Department and Juvenile Probation, including the potential for increased criminal activity and secondary use by minors; and need for MMEs based on the County's total population.

*C. That the proposed amendment is compatible with the actual and master planned use of the adjacent properties.*

**Staff Response:** This amendment is not site specific, however, the proposed zoning text amendment, which prohibits medical marijuana uses, is compatible with the use of adjacent properties. By prohibiting medical marijuana establishment uses throughout all zoning districts the County is not allowing for the negative impacts of medical marijuana establishment uses, as set forth above, on adjacent properties and properties throughout the County.

As set forth above, a massive amount of information has been considered and a reasonable and responsible amount of time has been taken in determining what is in the best interest of the County. Prohibiting medical marijuana establishment uses in all zoning districts is based on numerous public hearings regarding medical marijuana establishment uses; receiving public comment; considering advisory recommendations or input from the Planning Commission, Town of Minden, Town of Genoa, Town of Gardnerville, Kingsbury General Improvement District,

Indian Hills General Improvement District and Gardnerville Ranchos General Improvement District; considering input from the Carson Valley Chamber of Commerce and other local non-profit charitable organizations; reviewing SB 374, regulations adopted by the Division of Public and Behavioral Health as R004-14; considering the Douglas County Code and the Douglas County Master Plan; reviewing Federal law, the Nevada Constitution, responses by neighboring jurisdictions to SB 374; evaluating the potential impacts of medical marijuana establishments on the health, safety, morals, and the general welfare of the community at large, the Douglas County School District, Douglas County resources, the Douglas County Sheriff's Department and Juvenile Probation, including the potential for increased criminal activity and secondary use by minors; and need for MMEs based on the County's total population.

### **III. CONCLUSION**

Ordinance 2014-1418, a zoning text amendment prohibiting medical marijuana establishment uses in all zoning districts has been drafted consistent with Board direction. Staff is requesting introduction.

### **ATTACHMENTS**

1. Ordinance 2014-1418
2. News Articles from Colorado & City of South Lake
3. Sheriff's Office Position Paper
4. Lake Tahoe News Articles
5. Douglas County School District's Accountability Report and February 3, 2014 Letter by Lisa Noonan, Superintendent



# BOCC ATTACHMENT 1

## ORDINANCE NUMBER 2014-1418

### SUMMARY

This Ordinance proposes to prohibit medical marijuana establishment (MME) uses from locating within Douglas County, including any unincorporated towns pursuant to the Board of County Commissioners' legislative powers in Nevada Revised Statutes (NRS) Chapters 244, 278 and 453A, including but not limited to 244.195, 244.357, 278.020, 278.050, 278.060, 453A.322, 453A.326, and 453A.350. The Ordinance proposes to delete Title 20, Douglas County Code (DCC) section 20.01.120, which placed a temporary moratorium on MME uses and amend DCC Chapter 20.660 to add a new section, 20.660.170 Medical marijuana establishment uses, which states MMEs are a prohibited use within all Douglas County zoning districts. Additionally, an amendment to Appendix A, Definitions is also proposed to add a definition for MMEs, including testing labs for marijuana, medical marijuana cultivation facilities, production facilities for edible or infused medical marijuana products and medical marijuana dispensaries as further defined by Nevada Revised Statutes, Chapter 453A.

### TITLE

**A zoning text amendment to Douglas County Code (DCC), Title 20 to prohibit medical marijuana establishment (MME) uses as defined by Nevada Revised Statutes (NRS) Chapter 453A in all Douglas County zoning districts; deleting section 20.01.120 Moratorium on Medical marijuana establishments; adding a new section 20.660.170 Medical marijuana establishment uses which prohibits the MME use in all zoning districts; adding a definition for MME in Appendix A Definitions; and other properly related matters.**

WHEREAS the 2013 Nevada Legislature adopted SB 374 providing for the commercial production and distribution of medical marijuana by medical marijuana establishments, which has been substantially been codified in NRS 453A and regulations adopted by the Division of Public and Behavioral Health as R004-14; and

WHEREAS SB 374 and NRS 453A allow the Douglas County Board of Commissioners to enact zoning restrictions and requires medical marijuana establishments to comply with all local ordinances and rules pertaining to zoning and land use; and

WHEREAS zoning is a field covered by local regulation and there is significant local interest that may differ from one locality to another; and

WHEREAS the Nevada Legislature empowered the Douglas County Board of Commissioners, the governing body of Douglas County, the authority to regulate and restrict the improvement of land and to control the location of structures for the purpose of promoting health, safety, morals, or the general welfare of the community as set forth in NRS Chapter 278 and NRS Chapter 244 as allowed by the Nevada Constitution; and

WHEREAS the Nevada Legislature also delegated to the Douglas County Board of Commissioners the ability to regulate and restrict the use of buildings, structures or land within zoning districts established by the governing body as specifically set forth in NRS Chapter 278 and NRS Chapter 244 as allowed by the Nevada Constitution; and

WHEREAS the Douglas County Board of County Commissioners may make and enforce within its boundaries all local, police, sanitary, zoning and other ordinances and regulations not

in conflict with the general laws as set forth in the Nevada Revised Statutes and Nevada Constitution; and

WHEREAS preemption of the Douglas County Board of County Commissioners authority will not be implied when the Nevada Legislature permits or recognizes local regulation as is written in the language of SB 374 and incorporated into NRS 453A, including but not limited to the specific language in NRS 453A.322, 453A.326, 453A.350; and

WHEREAS the ability to restrict uses per zoning regulations includes the ability to prohibit uses per zoning regulations as long as state law and local zoning regulation are not in conflict; and

WHEREAS there is a legal uncertainty between Federal laws and Nevada laws regarding medical marijuana establishments. The United States Supreme Court has held that the Federal Controlled Substances Act validly prohibits local cultivation, and use of marijuana under all circumstances (*Gonzalez v. Raich*, 125 S.Ct. 2195(2005)) and the Federal Controlled Substances Act prohibits marijuana use, distribution and possession and that no medical necessity exception exists to these prohibitions (*United States v. Oakland Cannabis Buyer's Cooperative*, 121 S.Ct. 1711(2001)); and

WHEREAS Douglas County is a large rural community with limited resources and a long tradition of applying strict zoning and land use standards to protect the unique qualities and communities in Douglas County and in some cases has banned certain types of uses; and

WHEREAS the Douglas County Board of Commissioners have held numerous public hearings on medical marijuana establishment uses; received public comment; considered advisory recommendations or input from the Planning Commission, Town of Minden, Town of Genoa, Town of Gardnerville, Kingsbury General Improvement District, Indian Hills General Improvement District and Gardnerville Ranchos General Improvement District; considered input from the Chamber of Commerce and other local non-profit charitable organizations; reviewed SB 374, regulations adopted by the Division of Public and Behavioral Health as R004-14; considered the Douglas County Code and the Douglas County Master Plan; reviewed Federal law, the Nevada Constitution, and neighboring jurisdictions responses to SB 374; evaluated the potential impacts of medical marijuana establishments on the health, safety, morals, and the general welfare of the community at large, the Douglas County School District, Douglas County resources, the Douglas County Sheriff's Department and Juvenile Probation resources, including the potential for increased criminal activity and secondary use by minors; compared the number of medical card holders in Douglas County to its total population; and

WHEREAS the Douglas County Board of Commissioners recognizes the rights of individual qualifying patients per the Nevada Constitution to possess and use marijuana for medical purposes and the rights of qualifying medical marijuana card holders to grow marijuana non-commercially for medicinal use as provided by the Medical Use of Marijuana Law adopted by the Nevada Legislature in 2001; and

WHEREAS the Douglas County Board of Commissioners has found it to be in the best interests of the County to amend Douglas County Code, Title 20 to adopt zoning regulations prohibiting medical marijuana establishment uses as contemplated in NRS 453A, in all zoning districts within Douglas County for the purpose of promoting the health, safety, morals, or the general welfare of the community as required by NRS Chapter 278 and NRS Chapter 244 and as allowed by the Nevada Constitution.

NOW THEREFORE, based on the above considerations:

THE BOARD OF COUNTY COMMISSIONERS OF THE  
COUNTY OF DOUGLAS, DO ORDAIN:

**SECTION 1:** Pursuant to its Constitutionally delegated authority as set forth in NRS Chapters 244, 278 and 453A, including but not limited to 244.195, 244.357, 278.020, 278.250, 278.260, 453A.322, 453A.326 and 453A.350, and for the reasons stated above, individually and in the aggregate, the Douglas County Code, Title 20, sections, 20.01.120, 20.660.170 and Appendix A Definitions are hereby amended as set forth below with deleted language shown with a ~~strikethrough~~ and new language shown as underlined and *italicized*, as follows:

**SECTION 2:** ~~20.01.120 Moratorium on Medical Marijuana Establishments:~~  
~~Douglas County imposes a temporary moratorium on all medical marijuana establishments contemplated by SB 374 as adopted by the Nevada Legislature during its 77<sup>th</sup> Session and approved by the Governor of the State of Nevada, and as defined in Nevada Revised Statutes (NRS) Chapter 453A. Medical marijuana establishments are temporarily prohibited from locating within the County and are a prohibited use within this Title. The County will not accept, nor consider, any land use application, development permit, business license application, building permit application or any other application or request to operate or otherwise license or permit any medical marijuana establishments or associated uses as contemplated by SB 374 and incorporated into NRS, during the temporary moratorium period. The temporary moratorium is for a period of time not to exceed 360 calendar days from the effective date of the ordinance imposing the moratorium.~~

**SECTION 3:** **20.660.170 Medical marijuana establishment uses.**  
**A. Medical marijuana establishment, as defined by Nevada Revised Statute (NRS) Chapter 453A Medical Use of Marijuana, is a prohibited use within all zoning districts. Medical marijuana establishment uses are unlawful and are prohibited as a permitted use, special use, accessory use or temporary use within all zoning districts.**  
**B. The prohibition on medical marijuana establishment uses is not intended to interfere with the individual rights of a person to lawfully use medical marijuana as regulated and permitted by NRS Chapter 453A.**

**SECTION 4:** **Title 20, Appendix A Definitions.**  
**"Medical marijuana establishments": means (1) an independent testing laboratory to test marijuana or marijuana products, (2) a cultivation facility for marijuana, (3) a facility for the production of edible marijuana products or marijuana-infused products, (4) a medical marijuana dispensary, or a business that has registered with the Division of Public and Behavioral Health of the Department of Health and Human Services and paid the requisite fees to act as more than one of the businesses or establishments listed in sections (2), (3) or (4) above. The business or establishment listed in sections (1), (2), (3), and (4) are further defined in NRS Chapter 453A Medical Use of Marijuana and said definitions are hereby incorporated.**

SECTION 5: If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance or any part thereof. The Douglas County Board of County Commissioners hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more section, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective.

SECTION 6: All ordinances or parts of ordinances or sections, subsections, phrases, sentences, clauses or paragraphs contained in the Douglas County Code, in conflict herewith are hereby repealed.

PROPOSED on \_\_\_\_\_, 2014.

PROPOSED by Commissioner \_\_\_\_\_.

PASSED on \_\_\_\_\_, 2014.

VOTE: Ayes Commissioners:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Nays Commissioners:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Absent Commissioners:

\_\_\_\_\_  
Doug N. Johnson, Chairman  
Douglas County  
Board of Commissioners

ATTEST:

\_\_\_\_\_  
Ted Thran  
Douglas County Clerk

By: \_\_\_\_\_, Clerk to the Board

This ordinance shall be in force and effect from and after the \_\_\_\_\_ day of the month of \_\_\_\_\_ of the year 2014.



**The New York Times** <http://nyti.ms/1kjtWF8>

U.S. | NYT NOW

## After 5 Months of Sales, Colorado Sees the Downside of a Legal High

By JACK HEALY MAY 31, 2014

DENVER — Five months after Colorado became the first state to allow recreational marijuana sales, the battle over legalization is still raging.

Law enforcement officers in Colorado and neighboring states, emergency room doctors and legalization opponents increasingly are highlighting a series of recent problems as cautionary lessons for other states flirting with loosening marijuana laws.

There is the Denver man who, hours after buying a package of marijuana-infused Karma Kandy from one of Colorado's new recreational marijuana shops, began raving about the end of the world and then pulled a handgun from the family safe and killed his wife, the authorities say. Some hospital officials say they are treating growing numbers of children and adults sickened by potent doses of edible marijuana. Sheriffs in neighboring states complain about stoned drivers streaming out of Colorado and through their towns.

"I think, by any measure, the experience of Colorado has not been a good one unless you're in the marijuana business," said Kevin A. Sabet, executive director of Smart Approaches to Marijuana, which opposes legalization. "We've seen lives damaged. We've seen deaths directly attributed to marijuana legalization. We've seen marijuana slipping through Colorado's borders. We've seen marijuana getting into the hands of kids."

Despite such anecdotes, there is scant hard data. Because of the lag in reporting many health statistics, it may take years to know legal marijuana's effect — if any — on teenage drug use, school expulsions or the number of fatal car crashes.

2/14



It was only in January, for example, that the Colorado State Patrol began tracking the number of people pulled over for driving while stoned. Since then, marijuana-impaired drivers have made up about 12.5 percent of all citations for driving under the influence of drugs or alcohol.

Proponents of legalization argue that the critics are cherry-picking anecdotes to tarnish a young industry that has been flourishing under intense scrutiny.

The vast majority of the state's medical and recreational marijuana stores are living up to stringent state rules, they say. The stores have sold marijuana to hundreds of thousands of customers without incident. The industry has generated \$12.6 million in taxes and fees so far, though the revenues have not matched some early projections.

Marijuana supporters note that violent crimes in Denver — where the bulk of Colorado's pot retailers are — are down so far this year. The number of robberies from January through April fell by 4.8 percent from the same time in 2013, and assaults were down by 3.7 percent. Over all, crime in Denver is down by about 10 percent, though it is impossible to say whether changes to marijuana laws played any role in that decline.

"Every major institution said this would be horrible and lead to violence and blood in the streets," said Brian Vicente, one of the authors of Amendment 64, which legalized marijuana in Colorado. "None of that's happened. The sky did not fall."

The argument is being waged with fervor because both sides say Colorado's successes and failures with regulating marijuana will shape perceptions of legalization for voters considering similar measures in other states and for leery federal law enforcement officials. After the 2012 legalization votes in Colorado and Washington State — where recreational sales are expected to begin this summer — Justice Department officials gave the states a cautious green light. But they warned that they might intervene if marijuana ended up fueling violence or drug trafficking, or flowing across state lines or into the hands of children.

Marijuana opponents like Thomas J. Gorman of the Rocky Mountain High Intensity Drug Trafficking Area program, which helps law enforcement, say Colorado is already falling short of those standards.

"In any other state if they were making as much money and growing as much dope, they'd be taken out by the feds," Mr. Gorman said.

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Few agree on how much legally purchased marijuana is being secreted out of Colorado. Michele Leonhart, the head of the Drug Enforcement Administration, told a Senate panel in April that officials in Kansas had tallied a 61 percent increase in seizures of marijuana that could be traced to Colorado. But according to the Kansas Highway Patrol, total marijuana seizures fell to 1,090 pounds from 2,790 pounds during the first four months of the year, a 61 percent decline.

Some sheriffs and police chiefs along Colorado's borders say they have noticed little change. But in Colby, Kan., which sits along an interstate highway running west to Colorado, Police Chief Ron Alexander said charges for sale, distribution or possession related to marijuana were rising fast. This year, he tallied 20 such cases through May 23. Two years ago, there were six during that same time period.

Sheriff Adam Hayward of Deuel County, Neb., said he was locking up more people for marijuana-related offenses. "It's kind of a free-for-all," he said. "The state or the federal government needs to step up and do something."

Criminal marijuana cases in Colorado plunged by 65 percent in 2013, the first full year of legalization for personal recreational use, but the police in some areas have been writing dozens of tickets to crack down on public marijuana smokers. Police and fire officials across the state have been contending with a sharp rise in home explosions, as people use flammable butane to make hashish oil. And despite a galaxy of legal, regulated marijuana stores across the state, prosecutors say a dangerous illicit market persists.

In February, for example, in the Denver suburb of Aurora, a 17-year-old planning to rob an out-of-state marijuana buyer instead accidentally shot and killed his girlfriend, law enforcement officials said.

"Why break into a house to steal a TV or a computer that you have to fence when you can steal mounds of cash or marijuana, which is like liquid?" said George Brauchler, the district attorney who oversees Aurora. "That's the kind of stuff we're starting to become more aware of."

Many of Colorado's starkest problems with legal marijuana stem from pot-infused cookies, chocolates and other surprisingly potent edible treats that are especially popular with tourists and casual marijuana users.

On Colorado's northern plains, for example, a fourth grader showed up on the playground one day in April and sold some of his grandmother's marijuana to

three classmates. The next day, one of those students returned the favor by bringing in a marijuana edible he had swiped from his own grandmother.

"This was kind of an unintended consequence of Colorado's new law," said John Gates, the district's director of school safety and security. "For crying out loud, secure your weed. If you can legally possess it, that's fine. But it has no place in an elementary school."

So far this year, nine children have ended up at Children's Hospital Colorado in Aurora after consuming marijuana, six of whom got critically sick. In all of 2013, the hospital treated only eight such cases.

In March, the state logged what appeared to be its first death directly tied to legal recreational marijuana when a 19-year-old African exchange student, Levy Thamba Pongi, plunged to his death in Denver. He and three other students had driven from their college in Wyoming to sample Colorado's newly legal wares. Mr. Pongi ate marijuana-infused cookies, began acting wildly and leapt from a hotel balcony, officials said; the medical examiner's office said marijuana intoxication had made a "significant" contribution to the accident.

In April, the shooting death of Kristine Kirk raised even more concerns about regulating edible marijuana. Minutes before she was killed, Ms. Kirk called 911 to say her husband, Richard, was "talking like it was the end of the world" and had consumed marijuana and possibly prescription medication for back pain, according to a police affidavit. Police later confirmed that Mr. Kirk had bought the Karma Kandy and a pre-rolled joint from a licensed marijuana shop that evening.

Those two deaths, combined with reports of groggy, nauseated children visiting emergency rooms, forced the state to tighten its labeling and packaging rules for edible marijuana. Regulators are also considering whether to set lower limits on the amount of THC, the psychoactive component of marijuana, that can be packed into one cookie or chocolate bonbon.

Even supporters of legalization such as Mr. Vicente say Colorado needs to pass stricter rules about edible marijuana. He said the state was racing up a sharp learning curve.

"Marijuana was illegal for 80 years," Mr. Vicente said. "Now it's legal, and everyone's just trying to figure out how to approach these new issues."

**Correction: June 8, 2014**

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*An article last Sunday about efforts by Colorado to adapt to the legalization of marijuana for recreational use misstated the percentage of marijuana-impaired traffic citations by the Colorado State Patrol. It is 12.5 percent, not 1.5 percent. The article also referred incorrectly to the use of butane in the making of hashish oil. It is used as a solvent; it is not used to cook the oil.*

A version of this article appears in print on June 1, 2014, on page A14 of the New York edition with the headline: After 5 Months of Sales, Colorado Sees the Downside of a Legal High.

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## Arrests made in Colorado medical pot probe, at least one indicted

DenverPost.com

Updated: 04/26/2014 12:55:02 AM MDT



Denver medical marijuana raids

- May 30:
  - Assets of raided medical marijuana business on the auction block
- May 27:
  - Case against Colorado pot raid suspects rests on financial records
- May 5:
  - Attorney: Colorado marijuana raid suspect's stores following state law
- May 1:
  - Indicted marijuana businessmen once had ties to Denver's elite
- Apr 30:
  - DEA raids four Denver marijuana sites related to VIP Cannabis
  - Colombian man in Colorado medical marijuana raids pleads not guilty
- Apr 28:
  - Feds: Four men diverted Colombian cash to Colorado marijuana business

Federal agents made multiple arrests Friday in connection with high-profile raids on Colorado's medical marijuana industry last fall, and a lawyer for one of the raid targets confirmed his client has been indicted.

U.S. Attorney's Office spokesman Jeff Dorschner said the arrests were carried out by the Drug Enforcement Administration, IRS Criminal Investigations and the Diplomatic Security Service.

"Who has been arrested and the nature of the charges are currently the subject of a sealed indictment, which won't be publicly available until Monday," Dorschner said in a statement.



Colorado marijuana raids

He did not disclose how many people were arrested but said they would remain in federal custody until their first court appearances Monday.

On Nov. 21, federal agents executed search warrants on 14 businesses — including dispensaries and grow facilities — and two homes, carting away plants and seizing records. A search warrant identified 10 men as "target subjects" connected to the operation, the largest ever involving Colorado's medical

marijuana industry.

Sources told The Denver Post that the raids were chasing possible connections to Colombian drug cartels, which several of the targets have denied.



Denver attorney Sean McAllister said Friday his client, Gerardo Uribe, was indicted. McAllister said he could not comment further because the indictment was sealed and the details were unknown.

Uribe, 33, has identified himself as manager of VIP Cannabis, a high-volume Denver dispensary that was targeted in the raids, and owner of a marijuana-infused product manufacturer. Colorado regulators this month denied VIP's license application and ordered it to stop selling marijuana in its possession.

"My client continues to assert he conducted his business in a way that was consistent with Colorado marijuana laws," McAllister said in a statement. "He intends to vigorously defend himself."

Prosecutors described Uribe's alleged role in the organization in a court filing in a weapons case of a Colombian national, Hector Diaz, arrested during the raids. Prosecutors called Uribe "head of a marijuana drug distribution organization" and among the targets of a long-term investigation into money laundering.

On Friday, 9News published images of another raid target, Denver attorney David Furtado, 48, being led away by DEA agents.

Furtado, who could not be reached for comment Friday, has previously denied wrongdoing. He has described himself as a "people's attorney" who represented the Uribe family in business dealings and later bought stakes in a dispensary and a grow operation.

*Eric Gorski: 303-954-1971, [egorski@denverpost.com](mailto:egorski@denverpost.com) or [twitter.com/egorski](https://twitter.com/egorski)*

# Feds threaten to seize property where South Lake Tahoe pot clubs do business

On: March 22, 2012, By: [admin](#), In: [Featured Articles](#), [News](#), [17 Comments](#)

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By Kathryn Reed

The federal government has written letters to the property owners of the three South Lake Tahoe medical marijuana dispensaries threatening to seize their property, fine them or send them to jail if they keep those particular tenants.

"The letter didn't direct us to shutdown. It put the landlord on notice about the dispensary," Cody Bass, who runs Tahoe Wellness Collective, told *Lake Tahoe News*. "We are open every day and we'll remain that way. We have no intention to close."

What his landlord Patty Olson does remains to be seen. In a terse conversation with *Lake Tahoe News* on March 21, Olson said she wants to talk to Bass about what his collectives in Sacramento and Berkeley are going to do. She could not explain how that would be relevant to what she, as the property owner in South Lake Tahoe, would do.

Darcy De Tarr of De Tarr Properties in Burlingame was sent a letter dated Feb. 27 from the U.S. Attorney's Office in Sacramento that says, "This letter is formal notice that continued use of the property in violation of federal law may result in forfeiture and criminal or civil penalties. You should consult an attorney concerning this letter."

De Tarr was not reachable and Gino DiMatteo, who operates City of Angels 2 on De Tarr's property, did not return a phone call.

Kevin Khasigian, assistant U.S. attorney, who co-signed the letter with U.S. Attorney Benjamin Wagner, provided his number in the body of the letter to De Tarr. He did not return a phone call from *LTN*.

Erika and Matt Triglia run Patient2Patient and own the property.

"We are always concerned about being shut down, but we are committed to patients getting plant based medicine," Erika Triglia told *Lake Tahoe News*.

She believes the three South Tahoe dispensaries are on the fed's radar because city officials have legalized the businesses by issuing them business licenses and having created an ordinance that will permit each facility.

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City Attorney Patrick Enright said he was not surprised the letters were sent after the federal government sent the first batch of letters in October to larger collectives in bigger cities. But the city also was not given a heads up the letters were in the mail.

Enright said he does not foresee South Lake Tahoe being threatened by the feds even though the city has approved medical marijuana being cultivated, sold and possessed. The city is going with state law under the voter approved Proposition 215. It's the federal government that believes all marijuana is illegal.

Police Chief Brian Uhler echoed Enright's belief, saying he had been talking to federal authorities while the city was writing its ordinance.

El Dorado County Assistant District Attorney Hans Uthe had heard about the letters, but had neither seen one nor had his federal counterparts contacted him.

The letter to property owners says, "It is also a felony for a property owner to rent, lease or otherwise make a place available for cultivation or distribution of marijuana. Violation can result in imprisonment and a fine up to \$500,000; or a civil penalty of \$250,000 or twice the gross receipts, whichever is greater."

Lauren Horwood, spokeswoman for the Sacramento U.S. Attorney's Office, said follow-up with landlords would be done on a case-by-case basis. She said the intent of the letter was to get people to "comply on their own" and not have her office file a forfeiture complaint with the court.

Triglia doesn't believe the feds can do much more than write threatening letters at this point because of a lawsuit filed late last year by NORML against the four U.S. attorneys in California, Attorney General Eric Holder and DEA Administrator Michele Leonhardt to keep them, as the suit says, "from arresting or prosecuting plaintiffs or those similarly situated, seizing their medical cannabis, forfeiting their property or the property of their landlords or threatening to seize property, or seeking civil or administrative sanctions against them or parties whose property is used to assist them."

Triglia said, "We are here to help people and we're going to continue to do that

2/22

**DOUGLAS COUNTY SHERIFF'S OFFICE**  
**MEDICINAL MARIJUANA POSITION PAPER**

The Douglas County Sheriff's Office opposes allowing medical marijuana establishments in Douglas County for the following reasons:

1. **Legality** – Possession and cultivation of marijuana for any purpose is illegal under federal law. Further, marijuana has not been approved as medicine by the FDA. According to Title 21 United States Code, marijuana is a schedule I controlled substance, which means marijuana has a high potential for abuse, and that there is currently no accepted medical use for marijuana.<sup>i</sup>
2. **Public Safety** – Smoking or ingesting marijuana reduces motor coordination, slows reaction time, and impairs a person's ability to safely drive a vehicle or operate machinery.<sup>ii</sup> States like Colorado and Washington, where marijuana has been legalized by the state, have seen a significant increase in marijuana impaired drivers, and traffic fatalities attributable to marijuana impaired drivers.<sup>iii</sup>
3. **Our Children** - There is growing evidence showing that marijuana is particularly harmful to young people, and that it may cause long-term or even permanent impairment in cognitive ability.<sup>iv</sup> Further, parental drug use is an important influence on adolescent drug use, increasing the chances children will use drugs.<sup>v</sup>
4. **Community Health** –Marijuana smoke is an irritant to the lungs, and frequent marijuana smokers can have the same respiratory problems as tobacco smokers. A number of studies have also linked chronic marijuana use and mental illness.<sup>vi</sup> For those patients whose physicians believe they would benefit from medicinal marijuana, two active chemicals in found the marijuana plant (THC and CBD) have already been approved for medical use, and are available from pharmaceutical companies in pill form.<sup>vii</sup>
5. **Abuse & Addiction** – Marijuana is addictive, and it is a gateway drug.<sup>viii</sup> As many as 25 – 50% of daily users become addicted.<sup>ix</sup> And while not everyone who uses marijuana goes on to abuse harder drugs, nearly everyone we contact who abuses hard drugs like heroin have used, or are currently using marijuana as well.

<sup>i</sup> U.S. Department of Justice, Office of Diversion Control. Retrieved from:  
<http://www.deadiversion.usdoj.gov/21cfr/21usc/812.htm>

<sup>ii</sup> Drug Facts: Is Marijuana Medicine? National Institutes of Health/National Institute on Drug Abuse. Retrieved from:  
<http://www.drugabuse.gov/publications/drugfacts/marijuana-medicine>

<sup>iii</sup> Study: Fatal Car Crashes Involving Marijuana Have Tripled. February 4, 2014. CBS Seattle. Retrieved from: <http://seattle.cbslocal.com/2014/02/04/study-fatal-car-crashes-involving-marijuana-have-tripled/>

<sup>iv</sup> Drug Facts: Is Marijuana Medicine? National Institutes of Health/National Institute on Drug Abuse. Retrieved from:  
<http://www.drugabuse.gov/publications/drugfacts/marijuana-medicine>

<sup>v</sup> Legalization of Marijuana: Potential Impact on Youth. Pediatrics. Retrieved from:  
<http://pediatrics.aappublications.org/content/113/6/e632.full>

<sup>vi</sup> Drug Facts: Marijuana. National Institutes of Health/National Institute on Drug Abuse. Retrieved from: <http://www.drugabuse.gov/publications/drugfacts/marijuana-medicine>

<sup>vii</sup> Drug Facts: Is Marijuana Medicine? National Institutes of Health/National Institute on Drug Abuse. Retrieved from:  
<http://www.drugabuse.gov/publications/drugfacts/marijuana-medicine>

<sup>viii</sup> Yale study: Marijuana may really be gateway drug. August 21, 2012. Connecticut Post. Retrieved from: <http://www.ctpost.com/local/article/Yale-study-Marijuana-may-really-be-gateway-drug-3805532.php>

<sup>ix</sup> Drug Facts: Is Marijuana Medicine? National Institutes of Health/National Institute on Drug Abuse. Retrieved from:  
<http://www.drugabuse.gov/publications/drugfacts/marijuana-medicine>

## S. Tahoe man accused of burglarizing pot club

A South Lake Tahoe man was arrested late Aug. 8 on suspicion of burglary at Patient2Patient marijuana collective.

The troubled dispensary on Highway 50 in South Lake Tahoe must close its doors by Aug. 20 because of a slew of violations. Until then the business is open and people want to get their pot without paying for it.

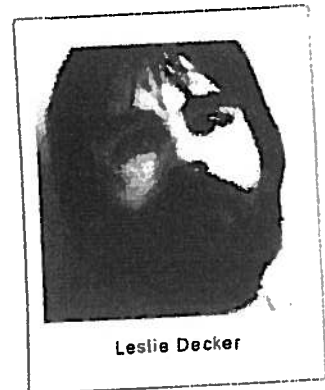
An alarm alerted police officers to a disturbance at the collective at 11:30pm Wednesday.

Officers said they witnessed Leslie Decker, 24, crawling out the bottom of a broken glass door. Inside this broken glass door was a cement cinder block, which appeared to have been used to break the glass, police said.

Decker's bicycle was lying on the ground on the east side of the building. Officers said he had several tools with him, including a socket wrench, sockets, a box cutter and screwdrivers.

The dispensary was also burglarized in July.

— Lake Tahoe News staff report



Leslie Decker

2/25



## Explosive device doesn't keep S. Tahoe pot club from opening

By Kathryn Reed

All three marijuana dispensaries in South Lake Tahoe are back in business. Patient2Patient had to clean up a mess left from an incendiary device being thrown into the collective Thursday and City of Angels 2 was hopping Friday afternoon after closing for a couple weeks.

With April 20 having significance in the world of pot users – they call it four-20 – it's not known if whoever is responsible for causing damage to Patient2Patient wanted to stop today from happening at least at this one collective.

If that was the desire, it didn't work. The collective is open today.

In fact, owner Erika Triglia was too busy helping someone to be able to speak with *Lake Tahoe News*.

Four-20's historical roots are muddled, with different theories as to how it came to be a date of significance to marijuana advocates.

Police officers are investigating the April 19 10:15pm incident. Lt. David Stevenson told *Lake Tahoe News* this crime has nothing to with the explosive device found last week on Tallac Avenue.

Two employees of Patient2Patient were in the building when the explosive was hurled through a side window. A small fire started, but overall the damage was minimal, according to Stevenson.

Down the road and on Third Street at City of Angels 2 people were coming and going from the collective. Owner Gino DeMatteo had abruptly and obviously temporarily shut down the facility earlier this month.

On April 20 he told *Lake Tahoe News* he didn't owe anyone a reason why he closed and is back open.

# BOCC ATTACHMENT 5

Per the 2012-2013 Douglas County School District Accountability Report, pg. 3 & 4

School	Enrollment	Discipline Incidents	Threatening Incidents	Exclusion Incidents	Exclusion Days	Exclusion Hours	Exclusion Minutes
State	6,623	273	481	185	1,918	384	2,410
Douglas	0	0	4	8	31	6	188
C O Mearns Elementary School	0	0	0	0	0	1	34
Carron Valley Middle School	0	0	1	0	1	2	1
Douglas Alternative School	0	0	0	0	0	0	4
Douglas County High School	0	0	0	2	14	1	44
Gardenville Elementary School	0	0	0	0	0	0	12
George Whitell High School	0	0	0	0	1	1	1
Jacka Valley Elementary School	0	0	1	0	0	0	1
Jacobson HS	0	0	0	0	2	0	1
Minden Elementary School	0	0	0	0	13	1	31
Pan Wu Lu Middle School	0	0	2	4	0	0	8
Paton Hills Elementary	0	0	0	0	0	0	1
Seasall Ed	0	0	0	0	0	0	18
Zephyr Cove Elementary School	0	0	0	0	0	0	0

Data as of end of school year.  
 \*\* Indicates data not presented for groups lower than 10. This data is suppressed due to FERPA regulations.

N/A indicates that this population was not present.

\*\*\* Indicates that the data was not available.

District totals do not include state or district sponsored charter school data. (2008-Current)  
 Discipline and Threatening Incidents are reported at the school where the action occurred.

\*\*The purpose of some alternative programs is to enroll students for a short period of time until they can re-enroll in a comprehensive school; therefore, exclusion rates may be greater than 100% or N/A. Data reported as of the end of the school year.

2/27



# Douglas County School District

1638 Mono Avenue • Minden, Nevada 89423

February 3, 2014

Board of County Commissioners  
Minden, Nevada 89423

Dear Board:

My apologies for not being able to share this letter in person. School District business requires that I be in Las Vegas during your meeting.

Since becoming superintendent for the Douglas County School District, I have had the opportunity to see and hear the challenges that some of our students face as they work to succeed in school and graduate. Our mission is to see every student earn a diploma and leave us college and college ready. Of all the barriers to student success, the #1 threat we see is what drug and alcohol abuse does to a child.

Since arriving to DCSD in 2010, we have recorded 422 suspensions for drug or alcohol-related offenses and 41 students have been brought before the board for possible expulsion on marijuana violations alone. Students who are using are typically experiencing failing grades, truancy issues and struggles with home life.

I implore you to do everything within your legal authority to keep marijuana as far away from our students for as long as possible. If there are members of our community who need access to this substance for medical reasons, I'm sure there will be reasonable availability within a short commute.

Please do not make a decision before all of the facts and details can be reviewed in this matter.

Respectfully,

Lisa Noonan, Ed.D.  
Superintendent

C: Douglas County School Board

**RECEIVED**

FEB 04 2014

DOUGLAS COUNTY CLERK

2/28

## Information

Phone: (775) 782-5134  
Fax: (775) 782-3162  
www.dcsd.k12.nv.us

## Administration

Superintendent  
*Lisa Noonan, Ed.D.*  
Superintendent  
(775) 782-5135

Education Services  
*Lyn Gornick*  
Assistant Superintendent  
(775) 782-7179

Business Services  
*Holly Lina*  
Chief Financial Officer  
(775) 782-5131

Human Resources  
*Rich Alexander*  
Assistant Superintendent  
(775) 782-7177

## Board of Trustees

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*Thomas Moore*

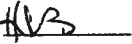

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*Teri Jamn*  
*Cynthia Trigg*

## Douglas County Planning Commission

### AGENDA ACTION SHEET

1. **Title:** For possible action. Discussion on a recommendation regarding Ordinance 2014-1419, a zoning text amendment to Douglas County Code (DCC), to amend Title 20, Appendix A to define an Indoor Gun Range use, and Section 20.658.020 (Permitted, development permitted, and special use permit uses), Section 20.660.090 (Use Regulations), Chapter 20.666 (Non-Residential Specific Standards for Permitted, Development Permitted and Special Use Permit Uses), and Chapter 20.668 (Non-Residential Specific Standards) so as to allow an Indoor Gun Range subject to a Special Use Permit and supplemental standards in the Private Recreation, Neighborhood Commercial, General Commercial, Tourist Commercial, Light Industrial, Service Industrial, and Public Facilities zoning districts; and other properly related matters.
2. **Recommended Motion:** Recommend adoption of Ordinance 2014-1419.
3. **Prepared by:** Hope Sullivan, AICP, Community Development
4. **Meeting Date:** August 12, 2014                      **Time Required:** 20 Minutes
5. **Agenda:** Public Hearing
6. **Background Information:** At its meeting of July 3, 2014, the County Board of Commissioners upheld the Planning Commission's May 13, 2014 decision that an Indoor Gun Range is not similar to an Indoor Recreation use as described in Chapter 20 of the Douglas County Code. The Commission's July 3 motion included direction to staff to prepare, in an expedited manner, a text amendment to Title 20 of the Douglas County Code to add an Indoor Gun Range into the Table of Uses. The proposed text amendment makes provisions for an Indoor Gun Range in the above referenced zoning districts subject to a Special Use Permit, and subject to supplemental standards to address noise mitigation, bullet containment, lead, and ammunition storage. As the Board directed staff to expedite this text amendment, the Board will consider introduction in advance of the Commission's consideration. The Commission's input will be presented to the Board at the second reading. (**Attachment 1:** August 7, 2014 Report to Board of Commissioners)
7. **Committee/Other Agency Review:** Board of County Board of Commissions will consider introduction of the Ordinance at its meeting of August 7, 2014.
8. **Reviewed by:**  
 Planning Manager                       Community Development Director
9. **Commission Action:**  
\_\_\_\_\_ Approved                      \_\_\_\_\_ Approved with Modifications  
\_\_\_\_\_ Denied                              \_\_\_\_\_ Deferred  
\_\_\_\_\_ Other

Agenda Item # 3



**COMMUNITY DEVELOPMENT**  
1594 Esmeralda Avenue, Minden, Nevada 89423

Mini Moss  
COMMUNITY DEVELOPMENT DIRECTOR

775-782-6201  
FAX: 775-782-6297  
website: [www.douglascountynv.gov](http://www.douglascountynv.gov)

**ATTACHMENT 1**

Building Division  
Engineering Division  
Planning Division  
Code Enforcement

## MEMORANDUM

Date: August 7, 2014  
To: Douglas County Board of Commissioners  
From: Hope Sullivan, Planning Manager, Direct Line 782-6200  
Subject: Introduction of Ordinance 2014-1419 to make provisions for an Indoor Gun Range use subject to a Special Use Permit and supplemental conditions.

### I. REQUEST

Consideration of a request from the Community Development Department to introduce Ordinance 2014-1419 (DA 14-051), a zoning text amendment to Douglas County Code (DCC), to amend Title 20, Appendix A to define an Indoor Gun Range use, and Section 20.658.020 (Permitted, development permitted, and special use permit uses), Section 20.660.090 (Use Regulations), Chapter 20.666 (Non-Residential Specific Standards for Permitted, Development Permitted and Special Use Permit Uses), and Chapter 20.668 (Non-Residential Specific Standards) so as to allow an Indoor Gun Range use subject to a Special Use Permit and supplemental standards in the Private Recreation, Neighborhood Commercial, General Commercial, Tourist Commercial, Light Industrial, Service Industrial, and Public Facilities zoning districts; and other properly related matters.

### II. RECOMMENDATION

Introduce Ordinance No. 2014-1419 (ref. DA 14-051), a zoning text amendment to the Douglas County Code (DCC), to amend Title 20, Appendix A to define an Indoor Gun Range use, and Section 20.658.020 (Permitted, development permitted, and special use permit uses), Section 20.660.090 (Use Regulations), Chapter 20.666 (Non-Residential Specific Standards for Permitted, Development Permitted and Special Use Permit Uses), and Chapter 20.668 (Non-Residential Specific Standards) so as to allow an Indoor Gun Range use subject to a Special Use Permit and supplemental standards in the Private Recreation, Neighborhood Commercial, General Commercial, Tourist Commercial, Light Industrial, Service Industrial, and Public Facilities zoning districts; based on the discussion and findings in this report.

### III. DISCUSSION

On July 3, 2014, the Board of County Commissioners upheld the Planning Commission's determination that an Indoor Gun Range use is not an Indoor Recreation Use as that use is defined in Title 20. The Board further instructed the staff to expedite an amendment to Title 20 so as to make allowances for an Indoor Gun Range use.

Staff has drafted the proposed text to require that an Indoor Gun Range use be subject to a Special Use Permit. This will allow for public noticing, a public hearing, and review of the required findings by the Planning Commission. The proposed ordinance would limit the Indoor Gun Range use to the following non-residential zoning districts: Private Recreation, Neighborhood Commercial, General Commercial, Tourist Commercial, Light Industrial, Service Industrial, and Public Facilities.

Additionally, in considering the impacts of the use, staff has identified four areas of concern: (1) noise, (2) bullet containment, (3) lead, and (4) ammunition storage. These impacts were reviewed in the staff's July 3, 2014 report to the Board of County Commissioners. Given these impacts, staff has drafted the Ordinance to include supplemental standards to mitigate these impacts.

Specifically, the supplemental standards are as follows.

1. The use may not produce exterior noise in excess of 65 decibels when measured at the property line. If the use is in a multi-use building, the noise in the neighboring spaces may not exceed 45 decibels when measured in the interior space. To the extent that the County must utilize a third party to verify noise levels, the Indoor Gun Range owner will be responsible for the cost of the third party review.
2. The use must incorporate bullet containment to the satisfaction of the Building Official so as to ensure that bullets will not penetrate walls, ceilings, or floors. To the extent that the County must utilize a third party to verify this standard is met, the Indoor Gun Range owner will be responsible for the cost of the third party review.
3. The use must utilize total metal jacket or plated bullets so as to minimize lead vapors, and the building space must be properly ventilated to the satisfaction of the Building Official.
4. Prior to commencement of the use, a complete fire life safety inspection of the proposed space and building shall be conducted by the Fire District to ensure conformance with all applicable fire life safety requirements. As part of this inspection, the Indoor Gun Range owner shall advise the Fire Marshall of intended location and anticipated amount of ammunition storage.

Of note, finalization of comments from the Sheriff is pending at the time of this report. Any comments from the Sheriff's office will be provide to the Board at the time it considers the first reading of the Ordinance.



#### IV. FINDINGS FOR A ZONING TEXT AMENDMENT

In accordance with Section 20.610.050 of the Douglas County Code, the Board may approve the zoning text upon making the following findings.

*A. That the proposed amendment is consistent with the policies embodied in the adopted Master Plan and the underlying land use designation contained in the land use plan.*

**Staff Response:** Policy 1.2 of the Parks and Recreation Element of the Master Plan states “To continue to make available to the county residents and visitors alike a variety of active and passive park facilities and recreation programs that satisfy their needs and enhance their basic quality of life.” Policy 1.6 of this same element states “To accord top priority to obtaining indoor facilities that appeal to the recreational and social needs of citizens of all ages.”

Staff finds that the proposed amendment is consistent with the Master Plan in that it would allow for an expansion of the scope of recreational opportunities in the County, particularly recreational activities that will occur indoors and appeal to all age groups.

The proposed text amendment will limit the new use to non-residential zoning districts, and mandate a Special Use Permit. This will allow for review of consistency of the Master Plan on a site specific basis.

*B. That the proposed amendment will not be inconsistent with the adequate public facilities policies contained in Douglas County Code, Title 20.*

**Staff Response:** The proposed amendment makes provisions for an Indoor Gun Range subject to a Special Use Permit. By mandating this public review process, the adequacy of roads, water, sewer, and other public infrastructure can be analyzed on a site specific basis. The requirement that the Planning Commission make the findings necessary for a special use permit will ensure that the adequacy of public facilities be reviewed on a case by case basis prior to allowing the establishment of the use.

*C. That the proposed amendment is compatible with the actual and master planned use of the adjacent properties.*

**Staff Response:** The text amendment limits the Indoor Gun Range use to specific non-residential zoning districts to encourage land use compatibility. The supplemental standards proposed to address noise mitigation, bullet containment, lead, and ammunition storage are intended to achieve compatibility with adjacent land uses as well. As part of the Special Use Permit process, site specific review will occur to further ensure compatibility with adjacent uses.

## **V. CONCLUSION**

The proposed Zoning Text Amendment to allow an Indoor Gun Range use subject to a Special Use Permit and supplemental standards is consistent with the policies of the Parks and Recreation Element of the Master Plan, and is crafted to include a process to ensure adequacy of public facilities and compatibility with neighboring uses. The required findings can be met. Therefore, staff recommends introduction of Ordinance 2014-1419.

### **Attachment:**

BOC Attachment 1 – Draft Ordinance 2014-1419

## ORDINANCE NUMBER 2014-1419

### SUMMARY

An ordinance amending Douglas County Development Code, Title 20, amending Appendix A to define an Indoor Gun Range use, and Section 20.658.020 (Permitted, development permitted, and special use permit uses), Section 20.660.090 (Use Regulations), Chapter 20.666 (Non-Residential Specific Standards for Permitted, Development Permitted and Special Use Permit Uses), and Chapter 20.668 (Non-Residential Specific Standards) so as to allow an Indoor Gun Range subject to Special Use Permit and supplemental standards.

### TITLE

**Ordinance No. 2014-1419, a Zoning Text Amendment amending Douglas County Development Code (DCC), Title 20, Appendix A to define an Indoor Gun Range use, and Section 20.658.020 (Permitted, development permitted, and special use permit uses), Section 20.660.090 (Use Regulations), Chapter 20.666 (Non-Residential Specific Standards for Permitted, Development Permitted and Special Use Permit Uses), and Chapter 20.668 (Non-Residential Specific Standards) so as to allow an Indoor Gun Range subject to Special Use Permit and supplemental standards in the Private Recreation, Neighborhood Commercial, General Commercial, Tourist Commercial, Light Industrial, Service Industrial, and Public Facilities zoning districts; and other properly related matters.**

The Board of County Commissioners of the County of Douglas of the State of Nevada, do ordain:

**SECTION 1:** The Douglas County Development Code, Title 20, Appendix A, is amended with the language being deleted shown as strikethrough and the new language shown in *italics and underlined*, as set forth below, all other sections shall remain in full force and effect:

*"Indoor Gun Range": An enclosed facility or area used for archery or the shooting of firearms, whether for practice or sport."*

**SECTION 2:** The Douglas County Development Code, Title 20, Section 20.658.020, is amended with the language being deleted shown as strikethrough and the new language shown in *italics and underlined*, as set forth below, all other sections shall remain in full force and effect:

**20.658.020 Permitted, development permitted, and special use permit uses (Table).**

The following list represents those uses, subject to the provisions of this title, in the non-residential districts which are permitted by right (P), subject to design review (D), requires special use permit and design review approval (S), requires approval of a temporary use permit (T), or are prohibited (X). Uses not listed in this table are prohibited.

**Note:** *Italics* denote that Specific Standards apply (see chapter 20.668)

20.658.020 Use (see sections in chapter 20.660 for use descriptions)	PR	NC	OC	GC	MUC	TC	LI	GI	SI	PF	AP
<b>.090 Recreational uses</b>											
(A) Equestrian facility	D	X	X	X	X	S	X	X	X	S	X
(B) Golf course	S	S	S	S	S	S	S	S	S	S	S
(C) Health clubs	D	D	D	D	D	D	D	X	D	D	X
(D) Indoor recreation	D	D	X	D	D	D	D	X	D	D	X
(E) Membership club	D	D	D	D	D	D	D	X	D	D	X
(F) Motorized racing	S	X	X	X	X	D	X	X	X	D	X
(G) Non-motorized racing	D	X	X	X	X	D	D	X	X	D	X
(H) Outdoor recreation, day use	S	S	X	S	S	S	D	X	D	S	S
(I) Outdoor recreation, night use	S	S	X	S	X	S	D	X	D	S	S
(J) Park or play field, day use	D	D	D	D	D	D	D	D	D	D	X
(K) Park or play field, night use	S	S	S	S	S	S	S	S	S	S	X
(L) Public recreation center	D	D	D	D	D	D	D	X	D	D	X
(M) Ski area	S	S	X	X	S	S	X	X	X	S	X
<i><u>(N) Indoor Gun Range</u></i>	<u>S</u>	<u>S</u>	<u>X</u>	<u>S</u>	<u>X</u>	<u>S</u>	<u>S</u>	<u>X</u>	<u>S</u>	<u>S</u>	<u>X</u>

**Key:**    **D** - Requires design review      **S** - Requires special use permit and design review  
             **X** - Prohibited                              **P** - Permitted by right (may require building permit)  
             **T** - Request a temporary use permit

**SECTION 3:** The Douglas County Development Code, Title 20, Chapter 20.660.090, Use Regulations, is amended with the language being deleted shown as ~~strike through~~ and the new language shown in *italics and underlined*, as set forth below, all other sections shall remain in full force and effect:

#### **20.660.090 Recreation uses.**

A. "Equestrian facilities" means a commercial facility for horse training, boarding in excess of that permitted under section 20.660.010.D, competitive equestrian events, rentals, sales and lessons.

1. In an SFR-2, RA-5, forest and range, or agricultural zoning district, structures must be located a minimum of 100 feet from all lot lines;

2. Outdoor lighting of facility requires special use permit approval.

B. "Golf course" means recreational facility primarily used for the purpose of playing golf, but which may include accessory eating and drinking areas, retail sales areas, locker rooms and staff offices.

C. "Health club" means a facility containing space and equipment for indoor sports activities, including but not limited to spectator seating, locker and shower rooms, classrooms, swimming pool, weight training and aerobic exercise.

D. "Indoor recreation" means an entirely enclosed facility which offers entertainment or games of skill for a fee, including but not limited to a bowling alley, billiard parlor, or a video game arcade. This use may include accessory eating and drinking areas, retail sales areas, and staff offices.

E. "Membership club" means a facility, including associated eating, drinking, and recreational facilities, owned or operated by a group of people organized for a common social, educational, service, or recreational purpose. These clubs are usually characterized by certain membership qualifications, payment of fees or dues, regular meetings, a constitution, and by-laws.

F. "Motorized racing facility" means a facility where racing events are held in which the sport uses vehicles propelled by a mechanical engine. Agricultural related events including but not limited to steam engine events and antique tractor races are not included within this definition. Setback requirements: In an agricultural or forest and range zoning district, no portion of the facility, with the exception of the gate house, may be located within 600 feet of any lot line.

G. "Non-motorized racing facility" means a facility where racing events are held in which the sport does not involve the use of mechanical engines for propulsion. Outdoor lighting of facility requires specified approval in the special use permit.

H. "Outdoor recreation, for day use" means an area or facility which offers entertainment, recreation, or games of skill for a fee, where any portion of the activity takes place outside only during daylight hours. This includes but is not limited to a golf driving range, rifle range, boating facility, tennis facility, or a miniature golf course.

I. "Outdoor recreation, for night use" means an area or facility which offers entertainment, recreation, or games of skill for a fee, where any portion of the activity takes place outside and includes lighted areas for use after dusk. This includes but is not limited to a golf driving range, rifle range, boating facility, tennis facility, or a miniature golf course.

J. "Park or play field, for day use" means a recreational area providing parks and playfields for use during daylight hours. This includes publicly owned and commonly owned recreational facilities.

K. "Park or play field, for night use" means a recreational area providing parks and playfields which may include lighted areas for use after dusk. This includes publicly owned and commonly owned recreational facilities. Lighting must comply with the standards set forth in the design criteria and improvement standards manual.

L. "Public recreation center" means a publicly owned area providing recreational facilities such as playgrounds, parks, game courts, swimming pools, and playing fields.

M. "Ski area" means a recreational facility for Alpine and Nordic skiing, including associated lodge buildings, ski school, eating and drinking areas, and retail sales.

N. "Indoor Gun Range" means an enclosed facility or area used for archery or the shooting of firearms, whether for practice or sport.

**SECTION 4:** The Douglas County Development Code, Title 20, Section 20.666.010, Non-Residential Uses Specific Standards (Table), is amended with the language being deleted shown as ~~strike through~~ and the new language shown in *italics and underlined*, as set forth below, all other sections shall remain in full force and effect:

**20.666.010 Table.**

In addition to the general development requirements contained in chapter 20.690 (Property Development Standards), the following uses have specific standards that apply within the non-residential zoning districts. The standards are specified in chapter 20.668:

Key: "+" applies in the land use district.

Specific Standards (See section in chapter 20.668)	PR	NC	OC	GC	MUC	TC	LI	GI	SI	PF	AP
Sections 010. – 260. are re-enacted as currently written.											
<u>270. Indoor Gun Range</u>	+	+		+		+	+		+	+	

**SECTION 5:** The Douglas County Development Code, Title 20, Chapter 20.668, Non-Residential Uses Specific Standards, is amended with the language being deleted shown as ~~strike through~~ and the new language shown in *italics and underlined*, as set forth below, all other sections shall remain in full force and effect:

20.668.270. Indoor Gun Range

An Indoor Gun Range must meet the following standards:

- A. The use may not produce exterior noise in excess of 65 decibels when measured at the property line. If the use is in a multi-use building, the noise in the neighboring spaces may not exceed 45 decibels when measured in the interior space. To the extent that the County must utilize a third party to verify noise levels, the Indoor Gun Range owner will be responsible for the cost of the third party review.
- B. The use must incorporate bullet containment to the satisfaction of the Building Official so as to ensure that bullets will not penetrate walls, ceilings, or floors. To the extent that the County must utilize a third party to verify this standard is met, the Indoor Gun Range owner will be responsible for the cost of the third party review.



- C. The use must utilize total metal jacket or plated bullets so as to minimize lead vapors, and the building space must be properly ventilated to the satisfaction of the Building Official.
- D. Prior to commencement of the use, a complete fire life safety inspection of the proposed space and building shall be conducted by the Fire District to ensure conformance with all applicable fire life safety requirements. As part of this inspection, the Indoor Gun Range owner shall advise the Fire Marshall of intended location and anticipated amount of ammunition storage.

PROPOSED on \_\_\_\_\_, 2014

PROPOSED by Commissioner \_\_\_\_\_

PASSED on \_\_\_\_\_, 2014

VOTE:      AYES:      Commissioners \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

NAYS:      Commissioners \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Absent:

\_\_\_\_\_  
Doug N. Johnson, Chair  
Douglas County Board of Commissioners

ATTEST:

\_\_\_\_\_  
Ted Thran, Clerk-Treasurer

This ordinance shall be in force and effect from and after the \_\_\_\_\_ day of the month of \_\_\_\_\_ of the year \_\_\_\_\_.